

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1251 OF 2015**

Sushil Sabhajeet Singh & Anr. ...Applicants
Versus
The State of Maharashtra & Anr. ...Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1252 OF 2015**

Ramakant Shilaprasad Mishra & Anr. ...Applicants
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. M. P. Mishra for the Applicants

Mr. S. S. Pednekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 26TH AUGUST, 2015

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P.
2. By these applications, the applicants seek pre-arrest bail in connection with C.R. No. 380 of 2015 registered with the D.N. Nagar Police Station, for the alleged offences punishable under Sections 387, 342, 324 r/w 34 of the Indian Penal Code, 1870.
3. The applicants and the complainant were all working for a Security Agency by the name 'Trig Guard Force Limited.' According to the

complainant-Santosh Tukaram Patil, who was acting as a Supervisor in the said Company, on 10th June, 2015, Arif Khan – applicant No. 2 in ABA No. 1251 of 2015 called him to the office of Trig Security Guards at Andheri (West). It is alleged that Ramakant Mishra - applicant No. 1 in ABA No. 1252 of 2015 was present there and had taken him to the first floor of the Office. It is alleged by the complainant, that thereafter Arif, Vishal, Ramakant and one unknown person (Sushil) questioned him with regard to the misappropriation that he had done and asked him to return the money. He has alleged that he was threatened by the said persons and that Arif-applicant No. 2 in ABA No. 1251 of 2015 assaulted him with a wooden stick and asked him to return the money which was misappropriated or else he would not be released. Arif is alleged to have assaulted the complainant with a wooden stick on his back and hands. It is alleged that a sum of Rs. 1,00,000/- was demanded from the complainant and again he was assaulted on his back by Arif. It is alleged that Ramakant-applicant No. 1 in ABA No. 1252 of 2015 also assaulted the complainant with a wooden stick and a belt. It is alleged that the rest of the co-accused threatened the complainant.

4. Learned Counsel for the applicants submitted that a perusal of the complaint shows that the complainant himself has admitted that he had misappropriated the money. He submitted that no offence under Section 387 is made out. Learned A.P.P opposed the bail application. He submitted that specific overt acts have been attributed by the complainant both, to Arif as well as Ramakant.

5. Perused the complaint and in particular the injury certificate of the complainant. It appears from the injury certificate that the complainant was assaulted and has received injuries on his arm, elbow, lung region, knee, left forearm, palm, head and cervical region. It appears that there was mild swelling inside the cervical region. The complainant has specifically stated that Arif and Ramakant had assaulted him with wooden stick and belt, and the injury certificate corroborates the same. Merely because, the complainant had admitted the misappropriation of the money, would not give the applicants the license to assault the complainant and take law into their own hands. They ought to have adopted a legal remedy. Considering the overt acts attributed to Arif and Ramakant Mishra, the applicants Ramakant and Arif's anticipatory bail application is rejected.

6. However, as far as Sushil Singh-applicant No. 1 in ABA No. 1251 of 2015 and Vishal Sethia - applicant No. 2 in ABA No. 1252 of 2015 are concerned, no overt act has been attributed to them. Considering the above, the said applicants are granted pre-arrest bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicants Sushil Singh and Vishal Sethia be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount ;
- (ii) The said applicants shall attend the concerned Police Station as and when called;
- (iii) The said applicants shall cooperate with the investigating agency and shall not tamper or attempt to influence the witnesses or any person concerned with the case.

7. The learned Counsel for the applicants at this stage, states that Arif Khan and Ramakant Mishra will surrender before the concerned Court

on 3rd September, 2015 after giving notice to the concerned Investigating Officer. In view of the statement, the applicants-Arif and Ramakant, shall not be arrested till then.

8. If an application for regular bail is filed, the same shall be considered on its own merits uninfluenced by the observations made in the aforesaid order.

9. The applications are partly allowed in the aforesaid terms and are accordingly disposed of.

10. It is made clear that the observations made herein are confined to these applications and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.