

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1801 OF 2015

1. Mr. Rahul Dhondiba Sate

2. Mr. Avinash Ratan Masalkar : Applicants

Vs.

State of Maharashtra : Respondent

WITH

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1802 OF 2015

Shri Yogesh Shyamrao More : Applicant

Vs.

State of Maharashtra : Respondent

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Mr. Prakash Naik i/b. Mr. Ganesh Bhujbal for the applicants.

Mrs. R. V. Newton, Addl. Public Prosecutor for the State in Cri. ABA No. 1801/2015.

Ms. Veera Shinde, Addl. Public Prosecutor for the State in Cri. ABA No. 1802/2015 .

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : December 14, 2015.

P.C. :

. These applications for anticipatory bail have been filed by the aforesaid applicants apprehending their arrest in Crime No. 115 of 2015 registered at Shikrapur Police Station, for offences under section 143, 147, 347, 323, 504, 387 and 392 of the IPC.

2. The case of the prosecution in brief is that :

On 20th March 2015 the applicants and the others had

formed an unlawful assembly and had assaulted the first informant and his driver Kamlesh Arya. Based on the aforesaid FIR, the aforesaid crime was registered for offences under sections 143, 147, 347, 323, 504, 506, of the IPC. On 23rd April 2015 the first informant gave a supplementary statement wherein he made allegations of theft and extortion. In view of this offences, sections 387 and 392 came to be added.

3. Shri Prakash Naik, the learned Senior Counsel submitted that the complaint itself was lodged about one month after the date of the incident. He has submitted that there was no reference of theft or extortion in the said complaint and the said allegations were made only in the supplementary statement which was given after about 3 days from the date of the FIR. He has submitted that the allegations leveled against the applicant do not prima facie constitute the offences as alleged. The learned senior counsel for the applicants further submits that the nature of the allegations leveled against the applicant do not justify custodial interrogation. He therefore urged that the applicants be released on bail.

4. Mrs. Newton the learned Addl. Public Prosecutor submits that the supplementary statement of the first informant prima facie

reveals that the applicant and others had committed theft and extortion. She submits that the offences are of serious nature and as such the applicants are not entitled for bail.

5. I have perused the record and considered the submissions advanced by the learned senior counsel for the applicants and the learned Addl. Public Prosecutor for the State. The records prima facie reveal that there was an accident on 20th March 2014 between the vehicle of the applicant and the vehicle of the first informant. Both the vehicles were damaged and there was an altercation between them over the said accident. The complainant had alleged that the applicants herein had demanded Rs.12,000/- towards the expenses and later obtained a quotation for Rs.20,000/-. The first informant had paid to the applicants Rs. 11,000/- towards the expenses, however, the applicants had demanded more money and had threatened that they would not return his vehicle and that they would set the vehicle on fire in case he failed to pay the balance amount. The said FIR which was lodged on 21st April 2015 relates to the incident of 20th March 2015. Moreover there were no allegations of theft or extortion in the said FIR. Such allegations were made for the first time in the supplementary statement given on

23rd April 2015. The nature of allegations as well as the delay in lodging the FIR would not justify custodial interrogation. The applicants are permanent residents of Taluka. Khed, Dist. Pune and there is no chance of the applicants absconding or thwarting the course of justice. Considering the above facts and the nature of the allegations levelled against the applicants, in my considered view, the applicants are entitled for bail.

6. Hence, the applications are allowed on the following terms and conditions :

- (a) In the event of the arrest of the applicants in crime No. 115/2015 registered at Shikrapur Police Station, the applicants shall be released on bail on furnishing Bail Bond of Rs. 15000/- (Rupees Fifteen Thousand only) with one or two sureties in the like amount to the satisfaction of the JMFC Shikrapur.
- (b) The applicants shall report to the Investigating Officer for 4 days from 10.00 a.m to 1.00 p.m for interrogation and investigation from the date of the receipt of the order.
- (c) The applicants shall not interfere, in any manner, with the

complainant or other witnesses.

- (d) The applicants shall not leave Pune district till filing of the charge-sheet without prior permission of the JMFC Shikrapur.

(ANUJA PRABHUDESSAI, J.)