

IN THE HIGH COURT OF JUDICATURE, AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1827 OF 2015

Pramod Shirishkumar Devkar & Ors.	...	Applicants
Vs.		
The State of Maharashtra	...	Respondent

Mr. Pradeep D Dalvi, Adv. for applicant.
Mrs. G P Mulekar, APP for State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 3rd December, 2015.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicants apprehending their arrest in Crime No.156 of 2015 registered with Shahuwadi Police Station for offences punishable under Sections 364, 342, 323, 324, 504 read with 34 of IPC.

2. Mr. Dalvi learned counsel for the applicant has submitted that the complainant had admitted having taken loan of Rs.21 lacs from the applicant. The complainant had repaid Rs.14 lacs and amount of Rs.7 lacs was due to be paid. The learned counsel for the applicant has further submitted that the complainant has filed a false complaint in order to avoid payment of the balance amount of loan. The learned counsel further submits that the allegations in the FIR do not prima facie disclose offence under Section 364 of IPC. He has further submitted that the nature of the allegations levelled against the applicant do not justify custodial interrogation.

3. Mr. Pednekar learned APP for State has submitted that offence under Section 364 of IPC is of serious nature. The FIR as well as the statements of the witnesses prima facie reveal that the applicant had abducted the first informant in order to cause his death. She has submitted that the vehicle used in committing the crime as well as the belts and sticks used in assaulting the complainant are yet to be recovered. She, therefore, contends that the applicant is not entitled for anticipatory bail.

4. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and the learned APP for State. The records prima facie reveal that the applicant as well as the complainant are practicing lawyers. They were also involved in land dealings. The FIR prima facie reveals that complainant had taken loan amount of Rs.21 lacs from the applicant herein and had repaid amount of Rs.14 lacs. The complainant has alleged that on 12th November, 2015 he had been to Bamboowadi in connection with some development of the property. The applicant and others approached him and demanded the repayment of the balance amount of Rs.7 lacs. Despite his assurance to repay the loan amount, the applicant and his associates abducted him and took him to village Amba and threatened to bury him alive. He has further stated that the applicant and the others had also abused and assaulted with belts, sticks, kicks and blows. Thereafter they took him to Banpuri and once again assaulted him and finally they brought him to the house of the applicant and thereafter they wrongfully confined him in the house from 12th to 15th November, 2015. He has stated that the he was released only after his father-in-law and brother-in-law had assured to repay loan amount.

5. The medical certificate prima facie reveals the complainant had sustained abrasions, contusion which are simple in nature. In my considered view and the material on record does not prima facie reveal that the applicant herein was abducted with an intention of causing death but the allegations prima facie reveal that the applicant had issued threats with an intention of recovering the balance money due to him. Such bare threats in my considered view would not prima facie constitute offence under Section 364 of IPC. The nature of the allegations, levelled against the applicants in my considered view, would not justify custodial interrogation. The applicant herein is a practicing lawyer and there is no possibility of his absconding or thwarting the course of justice.

7. In view of the above facts and circumstances, the application is allowed on the following terms.

1. In the event of arrest of the applicants in Crime No.156 of 2015 for the offences punishable under Sections 364, 342, 323, 324, 504 read with 34 of IPC, the applicants shall be released on bail bond of Rs.25,000/(Rupees Twenty Five Thousand Only) each with one or two sureties in the like amount to the satisfaction of the learned Judicial Magistrate, First Class, Shahuwadi, Kolhapur.
2. The applicants shall report to the investigating officer for 7 days from 10 am to 1 pm and further as and when required by the investigating officer for the purpose of the interrogation.
3. The applicants shall not tamper with the evidence or influence complainant and witnesses in any manner.

4. The applicants shall not leave Kolhapur district till the filing of the chargesheet or without prior permission of JMFC, Shahuwadi, Kolhapur.

(ANUJA PRABHUDESSAI, J.)