

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

908 CRIMINAL APPLICATION NO. 3509 OF 2016

RAJENDRA S/O SADASHIV DEV & ANR.

VERSUS

THE STATE OF MAHARASHTRA & ANR.

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Mr. V.D.Hon, Senior Counsel i/b

Mr. A.T.Kanawade, Advocate for Applicants.

Mr. A.B.Girase, Public Prosecutor for Respondents.

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CORAM : A.M.BADAR, J.

DATE : 18th AUGUST, 2016

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PER COURT :

1. This application survives only so far as applicant No. 1 Rajendra s/o Sadashiv Dev is concerned. He is accused in Crime No. I-194/2016 registered at Kotwali police station, Ahmednagar, Dist. Ahmednagar for the offences punishable U/ss 395,363,307,327,329,341,342,504,506 of the Indian Penal Code and u/ss 3,4/25 of the Arms Act. The application of applicant No. 2 Sow. Sunita w/o Rajendra Dev is already granted by my learned predecessor on 03/08/2016.

2. Heard learned Senior Counsel for the applicant/accused. He argued that the applicant is serving as cashier with the nationalized bank and he has no criminal antecedents. Learned Senior Counsel further argued that there is checkered history of civil litigation between the informant and the applicant. The informant is tenant of present applicant. Learned Senior Counsel submitted that by adopting several means, the informant had delayed disposal of R.C.S.No. 292/2007 filed by present applicant against the informant for possession of the shop block. Learned Senior Counsel further argued that ultimately present applicant was required to file Writ Petition No. 506 of 2014 for getting the civil Suit expedited from this Court. In submission of the learned Senior Counsel, the applicant is not concerned in any way with the crime in question and his name is there in the F.I.R. only on the basis of suspicion. The applicant has already taken recourse to the provisions of law for getting the shop block vacated from the informant. My attention is drawn to the chart showing several cases initiated by the informant, who is stated to be practicing Advocate at Ahmednagar.

3. Learned Public Prosecutor opposed the application by contending that material gathered by the investigator *prima facie* shows that in a pre-planned manner, at the behest of the present applicant, the crime in question was committed. Learned Public Prosecutor drew my attention to the statement of co-accused, so also bank statement of co-accused showing that contract was given to the accused persons to get the shop block vacated from the informant.

Learned Public Prosecutor relied on call detail record of co-accused and present applicant in order to demonstrate that there was conspiracy and present applicant was in-fact present near the scene of offence at the relevant time. Reliance is also placed on the register of Notary maintained by co-accused Prakash Karale, who is also stated to be an Advocate.

4. I have carefully considered the rival submissions. Perused papers of investigation furnished by learned Public Prosecutor. Undisputedly, present applicant is the landlord and informant Vasant Keshav Palve is the tenant. According to the prosecution case, shop block let out to the informant is being used by him as his office.

5. According to the prosecution case, on 07/06/2016 at about 8.35 p.m., informant Vasant Palve was abducted by 9 persons, who came on 3 motorcycles. He was then taken to the field situated at Balikashram road. At the point of sword and pistol, the informant was made to sign several blank stamp papers as well as Notary register. According to the prosecution case, accused persons uttered that the signed papers be shown to a person named Dev. Thereafter, the informant was robbed of cash, which was on his person. He was made to gargal with liquor and thereafter he was left at Saveri road. During investigation, accused named Pramod @ Sonya Trimbake came to be arrested. His interrogation revealed that the present applicant had given contract to accused persons to vacate the shop block in possession of the informant for the consideration of ₹ 4 Lakh.

The applicant then paid an amount of ₹ 2 Lakh. Extract of bank account of co-accused Promod Trimbake with Bank of Maharashtra shows that on 02/05/2016, an amount of ₹ 1.90 Lakh was deposited by cash. Interrogation from the co-accused revealed that he had kept an amount of ₹ 1 thousand for meeting the expenses.

6. There are eye witnesses to the incident of abducting the informant.

7. During investigation, Investigating Officer has seized register of the Notary. Perusal of said register goes to show that the same is in tune with the averments in the F.I.R. It appears that subsequently by applying whitener, the relevant entry came to be concealed.

8. Investigating Officer has relied on the call detail record of cell phone of the present applicant. My attention is drawn to the relevant portion thereof, which shows that on 07/06/2016 the present applicant was near Balikashram road, where the incident of obtaining signatures of the informant forcefully took place.

9. It is thus seen that there is *prima facie* evidence to connect the present applicant to the crime in question, wherein his custodial interrogation will be required. No case for anticipatory bail is made out.

10. The application is, therefore, rejected. Needless

to state that the observations in this order are *prima facie* in nature having no bearing on the trial of the case against the present applicant.

11. At this stage, learned Senior Counsel for the applicant submits that liberty of the applicant was protected during pendency of this application and same protection may be continued for the period of six weeks. The request so made is reasonable and, therefore, the applicant is granted six weeks' period to surrender before the concerned police station.

[A.M.BADAR, J.]