

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

Criminal Application No. 4024 of 2016

District : Nanded

1. Ramdas s/o. Narayan Banginwar,
Age : 43 years,
Occupation : Business,
R/o. Digras, Taluka : Digras,
District : Nanded.

 2. Gajanan s/o. Sudhakar Yamjanwar,
Age : 40 years,
Occupation : Private job,
R/o. Arni Road, Digras,
Taluka : Digras,
District : Nanded.

 3. Nilesh s/o. Gajanan Ingole,
Age : 21 years,
Occupation : Salesman,
R/o. Laxminagar, Digras,
Taluka : Digras,
District : Nanded.

 4. Ramu @ Ram s/o. Vijayrao
Mudholkar,
Age : 31 years,
Occupation : Driver,
R/o. Vithalnagar, Digras,
Taluka : Digras,
District : Nanded.
- .. Applicants.

versus

The State of Maharashtra,
Through Bhagyanagar Police Station,
Nanded, District : Nanded.

.. Respondent.

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Mr. S.S. Gangakhedkar, Advocate, for applicants.

Mr. S.M. Ganachari, Addl. Public Prosecutor, for the respondent - State.

Mr. A.G. Vasmatkar, Advocate, for the original complainant (Permitted to assist the Addl. Public Prosecutor).

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CORAM : A.M. BADAR, J.

DATE : 18TH AUGUST 2016

ORAL ORDER:

Applicants / accused in Crime No. 141/2016, for offences punishable under Sections 427, 379 and 452 of the Indian Penal Code, registered with Bhagyanagar Police Station, Nanded, at the instance of Nitin Narayanrao Bangitwar, by this application, are praying for pre-arrest bail.

2. Heard the learned Counsel appearing for applicants. He argued that the informant is real younger brother of applicant no.1 Ramdas. The learned Counsel further argued that the FIR itself shows that the informant had not even entered inside the shop but had made several allegations against present applicants. My attention is also drawn to the certificate issued by the Grampanchayat as well as to the agreement of leave and license in respect of the disputed premises.

3. The learned Addl. Public Prosecutor opposed

the application by submitting that there are eye witnesses to the incident, in question, and seizure of documents came to be effected from applicant no.1 Ramdas.

4. I have also heard the learned Counsel appearing for the informant. He argued that the shop, in question, is in the name of informant Nitin Bangitwar and on earlier occasion, Civil Suit has been filed and it is still pending.

5. Perused papers of investigation. Informant Nitin Bangitwar had reported Police on 14.06.2016, that at about 8.30 a.m., all applicants entered in his shop by breaking open the lock, damaged the CCTV, removed name plates and stolen some documents.

6. Perusal of papers of investigation goes to show that Shaikh Dastagir, who is watchman of the shop, had disclosed Police that present applicant no.1 Ramdas and three unknown persons came to the shop, broke open the lock of the gate and sat on the counter. Shaikh Dastagir has stated that the informant came and instead of entering in the shop, he directly went to the Police Station. Similar are statements of Dhananjay Kale and Ramkishan Degaonkar.

7. Perusal of the spot Panchanama shows that there was no damage to the shop in question.

Applicant no.1 Ramdas is real brother of the informant. It is seen that applicant no.1 Ramdas, informant Nitin and their brother Kishor had taken the premises on leave and license basis from Rangnath Savkar. The agreement shows that the premises were taken for opening branch of the shop at Digras. Grampanchayat, where the shop block is situated, had issued a certificate for opening shop in favour of applicant no.1 Ramdas. Applicants have placed on record, receipt issued by Grampanchayat, showing that applicant no.1 Ramdas was paying property tax in respect of the shop in question.

8. Prima facie, it appears that the informant and his brothers are doing business. One of the branch of their shop is at Nanded where the incident, in question, happened. According to the informant, applicants have trespassed in his shop and have stolen account books. From record of investigation, it is seen that documents are already seized from applicant no.1 Ramdas. It appears that applicants have submitted themselves to the Investigating officer as per the orders of this Court and they have cooperated the Investigating Officer by furnishing the documents allegedly stolen by them from the shop in question. The spot Panchanama does not show any damage to the shop. Applicant no.1 Ramdas is one of the tenants of the shop premises.

9. In that view of the matter, as recovery is already effected, custodial interrogation of the applicants is not warranted and, therefore, the order:-

(i) The application is allowed.

(ii) The order dated 22nd July 2016, granting ad interim anticipatory bail to applicants, is confirmed on the same terms and conditions.

(iii) In addition, applicants / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him / her from disclosing such facts either to the Court or to any police officer and that they shall not tamper with the prosecution evidence.

10. The Application stands disposed of in the aforesaid terms.

(A.M. BADAR)
JUDGE

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