

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 6127 OF 2016

1. SHYAM S/O. PRABHAKAR KANGUDE.
2. RAM S/O PRABHAKAR KANGUDE.
3. NAVNATH S/O DATTA KANGUDE.

... **APPLICANTS**

VERSUS

STATE OF MAHARASHTRA.

... **RESPONDENT**

...
Advocate for Applicants : Mr. Niteen V. Gaware.
AGP for Respondent / State : Mr. R. B. Bagul.
...

CORAM : **P. R. BORA, J.**
DATE : 03rd November, 2016.
(Vacation Court)

P.C.:

. The Applicants have approached this Court apprehending their arrest in Crime No.268 of 2016, registered at Karjat Police Station, for the offences punishable under Sections 395, 504 and 506 of the Indian Penal Code and also under Sections 3/25 and 4/25 of the Arms Act.

2 The learned counsel for the Applicants submits that to give a counterblast to the complaint filed by Mr. Rajendra Raghunath Kangude who happens to be the nephew of Applicant Nos.1 and 2 herein, the Complainant has filed a total false complaint against the present Applicants. The learned counsel further submits that the FIR

perused as it is do not reveal any cognizable offence against the Applicants. The learned counsel further submits that allegations as regards use of revolver were made against one Arjun Dande, who has been released on bail by the Sessions Court. The learned counsel further submits that none of the present Applicants was present on the spot as has been alleged. The learned counsel submits that all these Applicants were in procession at the relevant time and a CCTV footage is available with the Applicants. The learned counsel further submits that even otherwise the Applicants are ready to cooperate the investigating officer to carry out further investigation.

3 The learned APP has strongly opposed for granting the application. The learned APP submits that *prima-facie* case is made out against all these Applicants and the investigation is in progress. The learned APP further submits that the weapons are yet to be recovered. The learned APP further submits that gold ornaments alleged to be stolen by the present Applicants and the cash amount of Rs.13,500/- is also to be recovered. The learned APP further submits that there is specific allegation in the FIR against Applicant No.1 Shyam Kangude that he threatened the Complainant on the point of revolver. The learned APP therefore, prayed for rejecting the

application.

4 After having considered the arguments and after having gone through the FIR and other material placed on record, it appears to me that in so far as present Applicants are concerned, omnibus allegations are made in the FIR. So far as involvement of present Applicant No.1 Shyam Kangude is concerned, as has been submitted on behalf of the Applicants, the allegation as regards revolver is against Arjun Dande and Applicant No.1 and said Arjun Dande has been released on bail by the Sessions Court. The material on record further reveals that one Rajendra Raghunath Kangude who happens to be the nephew of present Applicants has on the same day filed a report against the Complainant namely Mahesh Akhade and others for the offences punishable under Sections 395, 504 and 506 of the Indian Penal Code, and thereafter the complaint came to be lodged against present Applicants. Considering the above facts, I am inclined to allow the present application. Hence, the following order:

ORDER

- I. Criminal application is allowed.
- II. In the event of arrest of the Applicants, they be

released on executing bond in the sum of Rs.15,000/- each and on furnishing solvent surety in the like amount.

- III. The Applicants to cooperate the investigating agency to complete the investigation and to remain present in the police station as and when called by the police.
- IV. The Applicants are further directed not to tamper with the prosecution evidence.
- V. Parties to act on an authenticated copy of this order.

ndm

[P. R. BORA]
(JUDGE)