

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.11 OF 2016

Firoz Salim Khan & Ors.	...	Applicants
Vs.		
The State of Maharashtra	...	Respondent

Mr. Rahul Kate, Adv. for the applicant.

Mr. D.P. Adsule, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.

DATE : 15th February, 2016.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicants apprehending their arrest in Crime No.188 of 2015 registered with Sangli City Police Station for offences punishable under Sections 143, 145, 323, 327, 354, 427, 452, 504 & 506 of the IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012.

2. The case of the prosecution in brief is that on 20th November, 2015 at about 4.45 pm, the applicants and the other accused formed an unlawful assembly and threatened to cause death of the complainant Uttam Mohite. It is also alleged that the applicant along with the other co-accused criminally trespassed into the house of Uttam and damaged the household articles and also assaulted him by kicks blows. It is further stated that the applicants had outraged

modesty of his minor daughter Deepali who was stated to be 13 years of age.

3. Apprehending their arrest in the said crime, the applicants had filed an application for anticipatory bail. The same came to be dismissed by the Addl. Sessions Judge – 2, Sangli vide order dated 19th December, 2015. Hence the present application.

4. Mr. Kate, the learned counsel for the applicants has submitted that the applicants and the other co-accused were signatories to the complaint dated 31st October, 2015 wherein they had alleged that one Salim Sanadi was involved in manufacturing Gutka, which is a banned substance. The learned counsel for the applicant has further submitted that the complainant is a distributor of Gutka and being aggrieved by the said complaint he has lodged a false complaint against the applicants. Mr. Kate, the learned counsel for the applicants has further submitted that the complainant is in habit of filing false complaints. He has drawn my attention to the letter dated 25th April, 2013 wherein the Superintendent of Police, Sangli had informed the Superintendent of Kolhapur that the complainant is involved in lodging several false complaints. Mr. Kate,

the learned counsel for the applicants contends that the said letter fortifies his contention that the present complaint is also one of the false and fabricated complaints. He has further submitted that even otherwise the nature of the allegations levelled against the applicants do not justify custodial interrogation. He therefore contends that the applicants are entitled for pre-arrest bail.

5. Mr. Adusle, the learned APP for the State has submitted that the FIR prima facie reveals that the applicants are involved in committing the said crime. He has further submitted that the applicants have not joined the investigation and that the conduct of the applicants does not justify grant of bail.

6. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties. The FIR prima facie indicates that on 22nd November, 2015 at about 4.45 pm the applicants and the other co-accused had entered the house of the complainant and had allegedly abused him and threatened to cause his death and thereafter damaged his household articles. The complainant had stated that the said accused persons had outraged the modesty of his minor daughter. It may be mentioned that the said

allegations are omnibus and are general in nature. It is also to be noted that the maximum punishment for offence under Section 8 of the POCSO Act, 2012 is 5 years and fine. The nature of the allegations levelled against the applicants, in my considered view, does not justify custodial interrogation.

7. Considering the above facts and circumstances, the application is allowed on the following terms and conditions.

- i. In the event of arrest of the applicants in Crime No.188 of 2015 registered with Sangli City Police Station, the applicants shall be released on furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand Only) each with one surety in the like amount to the satisfaction of the District and Sessions Judge, Sangli.
- ii. The applicants shall report to the investigating officer for 4 days from 10 am to 1 pm from the receipt of this order.
- iii. The applicants shall not tamper with the evidence or interfere with the complainant or any other witnesses in any manner.

(ANUJA PRABHUDESSAI, J.)