

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Amk

ANTICIPATORY BAIL APPLICATION NO. 129 OF 2016

Waman Dnyanedeo Raut & Ors.

...Applicants

Versus

The State of Maharashtra

...Respondent

.....

Mr. Niranjan Mundargi i/b D. J. Jadhav for the Applicant.

Mrs. Veera Shinde, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 25th JANUARY, 2016.

P. C. :

1. This is an application for anticipatory bail filed by the aforesaid applicants apprehending their arrest in Crime No. 382 of 2015 registered at Indapur Police Station, Pune for the offences under Sections 143, 147, 148, 323, 324, 341, 380, 504, 506 read with Section 149 of the Indian Penal Code.

2. The allegations against the applicants in short are that, on 09.12.2015 the applicants entered the cabin of the complainant Shri Rajendra Gadekar, who is the Head Master of Shri Shivaji Shikshan Prasarak Mandal and committed theft of some documents. It is

further alleged that on 28.12.2015 the applicants formed an unlawful assembly along with deadly weapons and that they assaulted the complainant and caused injuries to the complainant. Pursuant to the FIR lodged by the Rajendra Gadekar the aforesaid crime came to be registered. Apprehending their arrest the said applicants filed applications for anticipatory bail which came to be dismissed by the Additional Sessions Judge, Baramati by an order dated 18.01.2016. Hence the present application.

3. Shri Mundargi, the learned Counsel for the applicants has submitted that all the offences except the offence under Section 380 of the Indian Penal Code are bailable. He has further stated that there is no prima facie material to indicate that the applicants are involved in committing the offence under Section 380 of the Indian Penal Code. He has further submitted that the applicant Nos.2 to 6 are the trustees of the said school. The complainant who was the Head Master of the said school was not attending the school and had kept all the documents under the lock and key and hence the trustees had entered the office and opened the cupboard in presence of two panchas and taken stock of all the documents and registers which were kept in the cupboard. He has submitted that the panchnama

was drawn in presence of two independent panchas. He has further submitted that on 28.12.2015 the complainant herein had assaulted the trustees in view of which FIR No. 381 of 2015 has been registered against the complainant. He has submitted that the complainant has lodged a false complaint against the applicants due to his previous enmity. He has submitted that the nature of the allegations levelled against the applicants do not justify custodial interrogation.

4. Ms. Shinde, the learned APP submits that the applicants herein have committed theft of 14 certificates and that till date the said certificates are not recovered from the possession of the applicants. The learned APP submits that the custodial interrogation of the applicants is necessary to recover the said certificates.

5. I have perused the record and considered the submission advanced by the learned Counsel for the applicants and the learned APP for the State.

6. The complainant Rajendra Gadekar, the Head Master of Shri Shivaji Shikshan Prasarak Mandal, had lodged a FIR dated 28.12.2015 alleging that he was served with a letter of compulsory

leave dated 08.12.2015. He has further stated that on 09.12.2015 during his absence the applicant Nos.2 to 6 had opened the cupboard from his cabin and taken away the registers and files from the said cupboard. He had further alleged that on 28.12.2015 at about 10.30 a.m. the applicants had stopped his motorcycle and had assaulted him with wooden log, sticks, blows etc and he has sustained injuries. Pursuant to the said FIR the aforestated crime was registered.

7. The records, particularly the letter dated 16.12.2015, prima facie reveal that the complainant herein had not attended school from 17.12.2015 to 14.09.2015 and thereafter he was irregular in his attendance. The record further reveals that all the cupboards were locked and all the documents were kept under the lock and key. On 09.12.2015 the applicant Nos.2 to 6, who are the trustees of the said school, had opened the cupboard in presence of two independent persons and had drawn the panchnama and had also done video recording of the search conducted in the cabin of the complainant. It is to be noted that though the complainant has alleged that the applicants have taken the register from his cupboard without his permission, no complaint regarding the said incident was lodged till 28.12.2015.

8. The records prima facie indicates that on 28.12.2015 there was an incident of assault between the complainant as well as the applicants which led to filing as FIR 381 of 2015 against the complainant herein and the registration of FIR No. 382 of 2015 against the present applicants. It is not in dispute that the injuries sustained by the applicants and the complainant are simple in nature. Considering the aforesaid background, in my considered view this is not a case which would justify custodial interrogation. The applicants are otherwise permanent resident of Varkute Budruk, Indapur, Pune and there is no possibility of the applicants absconding and thwarting the Court of Justice. The applicants do not have criminal antecedents. In the light of the aforesaid facts and circumstances the applicants are entitled for anticipatory bail.

9. Hence the application is allowed in terms of the following terms and conditions:

(a) In the event of the arrest of the applicants in Crime No. 382 of 2015 registered at Indapur Police Station, the applicants are released on bail furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand only) each with one surety to the

like amount to the satisfaction of the Judicial Magistrate First Class, Indapur.

(b) The applicants shall report the Investigating Officer for 4 days from 10 a.m. to 1 p.m. from the date of the receipt of the copy of the order.

(c) The applicants shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence in any manner.

(d) The applicants shall not leave Pune District till filing of the charge-sheet without prior permission of the Judicial Magistrate First Class, Indapur.

(ANUJA PRABHUDESSAI, J.)