

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.163 OF 2016

Rajendra Ayodha Rawani & Ors.	...	Applicants
Vs.		
The State of Maharashtra	...	Respondent

Mr. J. Shekhar, Adv. i/b. Narendra V. Sharma, Adv. for the applicant.
Mr. Arfan Sait, APP for the State.
Mr. Ramdas Mundhe, API, Wakad Police Station present.

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.23 of 2016 registered with Pune Police Station, Wakad for offences punishable under Sections 141, 143, 147, 149, 324, 342, 354 & 323 of the IPC.

2. The case of the prosecution in brief is that on 15th January, 2016 the applicant and others formed an unlawful assembly and criminally trespassed into the house of Sunita Kusalkar and thereafter assaulted her. It is also alleged that the accused Jitendra Rawani outraged modesty of Arundhati Mane and Sundara Jadhav. Pursuant to the FIR lodged by Sunita Kusalkar the aforesaid crime came to be registered. Apprehending his arrest in the said crime the applicant

had filed anticipatory bail which came to be rejected vide order dated 25th January, 2016 by order passed by the Addl. Sessions Judge, Pune. Hence the present application.

3. Mr. Shekhar, the learned counsel for the applicant has submitted that the applicants are not involved in committing alleged crime. He further submitted that the applicants had already filed FIR against the complainant and others for criminally trespassing into their house and assaulting them and committing mischief and further set a fire to car of one of the co-accused Ajay. It is further submitted that the nature of the allegations levelled against the applicant do not justify custodial interrogation.

4. Mr. Sait, the learned APP for the State has submitted that the FIR prima facie shows that the applicants were the members of an unlawful assembly and that they had criminally trespassed in the house of the complainant. He has further submitted that the applicants had set fire to the car belonging to one of the co-accused in this crime. He further submits that there is prima facie material to show the involvement of the applicants in committing crime. Hence they are not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. The FIR prima facie reveals that on 17th January, 2016 at about 1.30 pm the complainant and others had visited the house of one Jitendra Rawani to collect a demand draft. It is stated that the applicants refused to give money and pulled them inside the house and assaulted them. It is also alleged that Jitendra Rawani had outraged the modesty of Arundhati Mane and Sundara Jadhav.

6. The records prima facie reveal that the complainant and others had gone to the house of accused and that the alleged incident had taken place in the house of the applicant / co-accused. Hence prima facie there is no material on record to indicate that the applicants herein had formed an unlawful assembly. The records reveal that there was a dispute between both these groups over some financial transaction which had led to a scuffle and both parties have lodged complaints against each other. It is to be noted that pursuant to the FIR lodged by the applicants crime No.22 of 2016 has been registered against the complainant and others for offences punishable under Sections 141, 143, 147, 149, 323, 427, 436 & 452 of the IPC. Considering the above aspects as well as the nature of the allegations,

in my considered view, this is not a case for custodial interrogation. The applicants are otherwise permanent residents of Pimpri, Pune and are not likely to abscond. The applicants have no criminal antecedents.

7. In view of 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.23 of 2016 registered with Pune Police Station, Wakad, the applicants shall be released on furnishing bail bonds of Rs.20,000/- (Rupees Twenty Thousand Only) each with one surety in the like amount to the satisfaction of the JMFC, Pimpri.
- ii. The applicants shall report to the investigating officer for 4 days from 10 am to 12 pm from the date of the receipt of this order.
- iii. The applicants shall not tamper with the evidence or influence complainant and the other witnesses in any manner.

(ANUJA PRABHUDESSAI, J.)