

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.213 OF 2016

1) UTTAMCHAND SANWALCHAND BAFNA)
2) BHARAT SAROOPARAMJI RAWAL)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Shri Sandeep Dere, Advocate for the Applicants.

Shri S.H.Yadav, APP for the Respondent – State.

Shri Anil Kadam, P.S.I., Nagpada Police Station, present in court.

CORAM : P N. DESHMUKH, J.

DATE : 9th JUNE 2016.

P.C. :

1 Both the applicants having been involved in Crime No.478 of 2015 registered on 15th December 2015 by Nagpada Police Station for the offences punishable under Sections 365, 342, 323, 504, 506 read with Section 34 of the IPC, have approached for anticipatory bail contending that they are falsely implicated by one Kesaram Dewasi.

2 Heard the learned counsel for the parties. Perused the documents made available by the learned APP. The applicants are protected by ad-interim order granting pre-arrest bail by order dated 3rd February 2016.

3 The learned counsel for the applicants contended that from the statement of complainant dated 15th December 2015 on the basis of which offence came to be registered, same is said to be totally false, involving the applicants. I have perused the report and in paragraph 3 of the same it is stated that on 11th December 2015 in the noon hours complainant received phone call of one Zunjar Singh, and on his say had met him on that day at Amrut Punjab Hotel at Bombay Central, where both the applicants along with Ankit Rawal arrived and directed complainant to occupy one white colour vehicle, who on abducting complainant, took him to Mazgaon lane and while they were proceeding towards Mazgaon lane, Zunjar Singh and Ankit Rawal enquired complainant as to why he was not making payment of persons from whom complainant has obtained gold on credit and both of them i.e.

Zunjar Singh and Ankit Rawal started assaulting him by fist blows. It is further stated that thereafter he was taken to one room in Hanuman lane and was assaulted by fist blows and kick blows demanding amount of said persons from whom the complainant had obtained gold on credit and had forcibly obtained written note from the complainant that he is liable to pay Rs.32 Lac to such four persons and obtained signature thereon.

From the further contents of his statement it is revealed that on the next day i.e. on 12th December 2015 he was taken out of the room at around 4.00 p.m. where he found four persons in civil dress who introduced themselves as officials from LT.Marg Police Station and took him to the police station where the complainant was informed by police that they were informed by one of such shopkeeper that he has committed theft in his shop which fact was denied. However, then police enquired about his liability to pay money to shopkeepers which the complainant accepted. It is further found that complainant was then relieved and he then met his brother and four days after having consultation with his brother lodged the report.

4 No satisfactory reasons could be stated by prosecution for lodging report three days after the incident which had occurred on 11th December 2015, merely because the learned APP has contended that the vehicle involved in the offence is yet to be seized, and also that two co-accused are yet to be arrested, cannot be a ground for refusing bail to the applicants, more particularly when there is no description of vehicle mentioned in the report except for stating one white colour car.

5 The learned APP on obtaining instructions from the Investigating Officer states that during the investigation no registration number or make of any car could be revealed. In that view of the matter, for the grounds as stated above, interim order granting pre-arrest bail to the applicants dated 3rd February 2016 stands confirmed on the same terms and conditions.

It is further directed that the applicants shall attend the Investigating Officer as and when called till the filing of the charge-sheet.

(P. N. DESHMUKH, J.)