

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.215 OF 2016

Nilima Rajendra Dalvi and ors.

...Applicant.

vs.

The State of Maharashtra.

...Respondent.

Mr. Vinay Kumar i/by V.K.Dubey for the Applicant.

Mr. P.P. Shinde, APP. for the State.

Mr. P. P. Nawle, PSI, Dindoshi Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 23rd February, 2016

P.C.

The applicants are apprehending arrest in CR No.27/2016 dated 12.1.2016 registered with Dindoshi Police Station, Mumbai under Sections- 307, 336, 354, 506 (II), 323 read with 34 of the Indian Penal Code.

2) The complainant Farida Aslam Khan has lodged the first information report dated 12.1.2016 stating that she is the owner of Flat No.308, Ankur Building, Dindoshi, Goregaon. The said flat is given on rental basis to applicant No.1. The applicant No.1 along with applicant No.2 and her other family members are residing in the said flat. That, on 12.1.2016 at about 11.00 a.m. the applicant along with her two daughters namely Khushbu and Tabassum had been to the said flat No.B-308 for collecting the rent of the said premises. At that time, the husband of Applicant No.1 Rejendra Dalvi and the son of Applicant No.1 Master Kaustabh were present in the flat. When the discussion pertaining to the rent was going on, the applicants along with Mr. Rejendra Dalvi all of a sudden attacked on the complainant and forcibly tried to remove them out of the house. The complainant has categorically stated that when she

along with her daughters tried to resist the said attack, co-accused Rajendra Dalvi committed an act as contemplated under Section 354 of the Indian Penal Code. The co-accused Rajendra Dalvi thereafter pushed the complainant into the bathroom. At that time the applicants caught hold the hands of the complainant. The co-accused Rajendra Dalvi thereafter abused the complainant and forced her to drink phenol which was in the said bathroom. The co-accused Rajendra Dalvi thereafter tried to forcibly empty the phenol bottle in the mouth of the complainant. It is the further allegation of the complainant that her clothes were also torn by the said Rajendra Dalvi and the applicants. That, the applicant No.1 also assaulted the daughters of the complainant. When the applicants realized that the clothes of the complainant are totally torn they thereafter forcibly put other clothes on her person and threatened her to dire consequences if she again turns up to the said place. The complainant and her daughters were screening to save their lives. The daughter of the complainant then gave a call to the Police Control Room. The Police from Dindoshi Police Station reached to the spot immediately. The complainant was thereafter taken to the Shabadi Hospital for treatment. In the premises, the first information report is lodged.

3) The learned counsel for the applicant submitted that the said first information report has been lodged by the complainant as the applicants were demanding refund of deposit amount paid by them to the complainant. He further submitted that the applicants have no role to play in the present crime. He further contended that prior to the incident the Applicant No.1 had lodged the complaint dated 23.12.2014 with the Local Police against the husband of the complainant herein however, the police did not take cognizance against him. It is to be noted here that the said complaint is dated 23.12.2014 and the date of incident of the present crime is 12.1.2016. It appears that there is no direct nexus between the

said two incidents. The learned counsel for the applicant thereafter contended that while committing the present offence there was no intention at the behest of the present applicants and therefore, it cannot be said that the present offence is committed by them. He lastly submitted that the custodial interrogation of the applicants is not necessary.

4) Per contra, the learned APP vehemently opposed the present application.

5) I have perused the original file pertaining to the investigation. The case diary maintained by the Investigating Officer dated 12.1.2016 specifically mentions that when the Mobile Van of the Dindoshi Police Station went to the spot after receipt of the information from the control room lady police officers carried the complainant to the hospital. The said lady police officer also seized/collected phenyle bottle which was found at the scene of the offence. The Medical report further reveals that the complainant was in fact having phenol in her mouth. The other medical papers also corroborates the version of the complainant. The statements of Ms. Tabasum and Khushbu i.e. the daughters of the complainant are undoubtedly corroborating the version of the complainant. It is thus clear that the applicants not only shared the common intention with other accused but also actively participated in the present crime.

6) After taking into consideration the evidence collected so far by the Investigating Agency, serious allegations made against the applicants and the gravity of offence, I am of the opinion that this is not a fit case for grant of pre-arrest bail to the applicants. The application is dismissed accordingly.

(A.S. GADKARI, J.)