

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 299 OF 2016

Parvez Bashir Khan & Anr.

.... Applicants

Versus

State of Maharashtra

.... Respondent

Ms. Tahera Qureshi, for Applicants.

Ms. R. M. Gadhvi, APP for State.

P. N. Patil (Crime P.I.), Mumbra P. S.

CORAM : A. S. GADKARI, J.
DATE : 22nd AUGUST, 2016

P. C.

1. This is an application under section 438 of the Code of Criminal Procedure for pre-arrest bail in C. R. No. 21 of 2016 registered with Mumbra Police Station under Sections 420, 406 & 395 of the Indian Penal Code.

2. The First Information Report is lodged by Mohammad Imran Ismail Sheikh. In the said report, it is stated that the informants have paid an amount of Rs. 5,00,000/- to the applicant no. 1 for purchase of a room at Mumbra. The applicant no.1 neither gave the possession of the room nor repaid the amount to the complainant. It is stated that on 3.1.2016 at about 11.00 p.m. the applicant no. 2 along with one Salim, in inebriated condition went to the house of the complainant and assaulted him with fist blows. The

complainant thereafter lodged NC complaint with Mumbra Police Station. After the relatives of the applicants intervened in the matter, the complainant did not prosecute them further. It is specifically stated in the first information report that on 7.1.2016 at about 11.00 p.m. the applicants along with other accused persons in inebriated condition came to the house of the complainant and assaulted him. They also robbed the golden ornaments which were on the person of the complainant. The complainant has further stated that as he was having apprehension from the applicants that they may cause further serious harm to him, he tried to commit suicide by consuming phenyl tablets. In the premise the first information report is lodged.

4. The learned counsel for the applicants submitted that there is material discrepancy in the first complaint/representation made by the informant to the Commissioner of Police, Thane on 8.1.2016 and the first information report dated 10.1.2016. It is submitted that the applicants are respectable persons and there was no need for them to rob the informant. It is submitted that the applicants have been falsely implicated in the present crime. It is therefore, prayed that the applicants may be released on pre-arrest bail.

5. The first informant in his report dated 10.1.2016 has specifically and categorically attributed the role of assault and robbing of golden ornaments from his person. It is stated that the applicants after assaulting the complainant have robbed the valuable articles from his person. Though the applicants were directed to

attend the Investigating Officer by an order dated 1st March, 2016, the learned APP on instructions from Investigating Officer submitted that the applicants have not attended the police station and did not co-operate the process of investigation. The golden ornaments alleged to have been robbed from the person of the informant, are yet to be recovered. As per the allegations the recovery of ornaments is to be effected by the police and I am of the opinion that custodial interrogation of the applicants is necessary.

6. After taking into consideration the material available on record, the serious allegations against the applicants and the gravity of the offence, this is not a fit case to grant pre-arrest bail.

7. Application is accordingly rejected.

(A. S. GADKARI, J.)