

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 408 OF 2016

Nilesh Ravindra Vichare	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Gautam Kanchanpurkar, Advocate for the applicant.
Mrs. P.P. Shinde, APP for the State.
Mr. R.A. Bhore, P.S.I., Manor Police Station, Palghar present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **11th March, 2016.**

P.C.:

This Application is moved by the applicant for anticipatory bail, as the applicant is facing charges under sections 307, 332, 353, 341, 504, 506 r/w. 34 of the Indian Penal Code in C.R. No. 14 of 2016 which is registered at Manor Police Station, District Palghar. The offence is registered at the instance of Ralvalnath Ramu Morbale.

2. It is the case of the complainant that he was working as a Branch Manager of Ekvitas Finance Company Ltd., Boisar, which gives loan on vehicle. He has obtained the order of the Court in respect of default of payment of loan against accused no. 1 Manik, who has obtained loan but did not pay EMI. Pursuant to the order of his office and the Court, he along with the police officer went to seize the truck, at that time, the applicant/accused and other accused prevented the complainant and other officials from taking possession of the truck. On 5th February, 2016 again

when the complainant and other officials went to seize the truck along with police, accused no. 1 and other accused assaulted the complainant and other persons of the Finance Company. They poured petrol and tried to set them on fire. The accused persons also assaulted the police officer who got injured and they also destroyed the documents. The complainant and other officials then took the truck. When they were proceeding towards the Phalghar Police Station, at that time, applicant/accused started abusing and stopped the truck. He told them that they cannot take the truck and so the complainant called the police. The applicant/accused abused the police and argued with them and threatened them of riots. The police stopped him and was taken to the police station. Hence, this Application.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused arrived on the spot later. There are no charges against the applicant/accused under section 323. The only charge of non-bailable offence the applicant is facing is of section 353 of Indian Penal Code. He submitted that the applicant/accused is a social worker. The learned counsel submitted that the applicant did not assault the police. There were verbal arguments with the police and hence, the applicant be granted pre-arrest bail.

4. Learned APP opposed the Application and submitted that the applicant/accused stopped the police and abused them. There are criminal

antecedents against the applicant/accused, as three cases under sections 307, 498A, 389, 386, 506 are pending against the applicant/accused and out of which, one case is under section 353 of the Indian Penal Code. She submitted that the applicant/accused is not to be granted pre-arrest bail.

5. Perused the FIR and the police report. The allegations made against the applicant/accused are of obstructing public servant from performing his duty and hence the offence under section 353 is registered. Section 353 is made non-bailable by amendment. As per the FIR, the applicant/accused himself did not physically assault the police. He is not the one who has poured the petrol on the complainant and other staff and tried to set them on fire. However, this applicant/accused had no business to arrive there when the truck was seized as per the order of the Tribunal under police protection. He went there in the jeep and stopped the truck and he not only argued with the complainant and other officials but also argued with the police, abused the officer and tried to obstruct them. The report submitted by the police discloses that three cases are registered against the applicant and in one of the case he is charged under section 353 of the Indian Penal Code. Considering the earlier offence of the same nature, I am not inclined to grant pre-arrest bail. Hence, Anticipatory bail application is rejected.

(MRIDULA BHATKAR, J.)