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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.530 OF 2016
WITH
CRIMINAL APPLICATION NO.263 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.530 OF 2016.

Ashok Nemlnath Herwade Applicant
V/s.
The State of Maharashtra Respondent

AND

Ms. Mangal Babu Benichetake .. Intervener.

Mr. Umesh Mankapre, for the Applicant.
Mrs. Veera Shinde, APP for the Respondent State.
Mr. S.V. Sadavarte, i/by Kuldeep U. Nikam, for the intervener.

CORAM : A. M. BADAR, J.

DATE : 25th JULY, 2016.

P.C. :

1. The applicant/accused in Crime No.45 of 2016, registered with Jaysingpur Police Station, District Kolhaur, for the offences punishable under Sections 143, 149, 188, 447, 454, 380, 427 of the Indian Penal Code Code, by this application is seeking pre-arrest bail.
2. Heard the learned counsel for the applicant as well as learned

APP.

3. The learned APP argued that presence of the applicant on the spot when house of the informant was demolished can be seen from the statement of informant as well as Kasturi Shirhatti and Rajendra Shrihatti.

4. I also heard the learned counsel for informant, who pointed out previous litigation between the parties. Perused the documents annexed to the application as well as case diary of the crime in question. It is seen that in the past also the present applicant was prosecuted at the instance of the present informant with similar allegations and the learned Additional Sessions Judge, Jaysingpur, by order dated 2.8.2006, was pleased to acquit the applicant of the charges levelled against him.

5. F. I.R. in question shows hearsay knowledge of informant Mangal Benichetake. She reported to police that her brother Devendra Babu Benichetake, informed her that Dhanpal Khot alongwith the present applicant and other 15 to 20 persons are demolishing their house by JCB machine. The informant reported that by demolishing her house, her cash and valuables to the tune of Rs.4.76 lacs were stolen. Informant Ms. Mangal Benichetake is not an eye witness to the incident in question. The alleged eye witness Kasturi Shrihatti and Rajendra Shrihatti have not named present applicant as a person present at the spot when house of informant was being demolished. Th spot panchnama shows that house

of the informant was demolished by miscreants.

6. It is seen that the site comprising house of informant was sold way back in the year 2008 by registered sale deed, by the present applicant to co-accused Dhanpal Khot. Statements of eye witnesses are showing the presence of Dhanal Khot. The presence of the applicant at the spot is not reflected from the statements of eye witnesses.

7. Considering the nature of evidence and factual background of the incident, liberty of the applicant needs to be protected and therefore, following order is passed.

Order

- I) The application is allowed.
- II) In the event of arrest of the applicant, in above crime, he be released on bail on his executing P.R. Bond in the sum of Rs.5,000/- and on his furnishing surety in the like amount.
- III) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
- IV) The applicant shall attend the concerned police station on 7th August 2016 and 14th August, 2016 in between 11.00 a.m. to 1.00 p.m., and shall co-operate the Investigating officer.
- V) The applicant shall not tamper with the prosecution

evidence in any manner.

8. In view of disposal of main application itself, Criminal Application No.263 of 2016 filed by the intervener is disposed of.

[A. M. BADAR, J.]