

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.591 OF 2016

Ramesh Narayan Shinde	..Applicant.
V/s.	
State of Maharashtra	..Respondent.
Mr.P.G.Chavan for the applicant.	
Smt.R.M.Gadhvi APP for respondent-State.	

CORAM : AM.BADAR, J.

DATED : 6TH JUNE, 2016

P.C. :-

1. This application under section 438 of the Criminal Procedure Code, 1973 is filed by the applicant / accused in Crime No.27/2016 for offences punishable under section 454, 457 and 380 of the Indian Penal Code, 1860 registered with the Karkamb Police Station, District Solapur.

2. Heard the learned counsel appearing for the applicant / accused. By taking me through the contents of the F.I.R., he argued that the contents of F.I.R. does not name the applicant / accused. He further argued that it is only on the basis of statement made by arrested accused Balu Arkas, the

present applicant is tried to be roped in the present offence. He further argued that there a 'N' number of persons by name Ramesh Shinde in village Karkamb, District Solapur. There is no iota of evidence against the present applicant in the crime in question and, therefore, he is entitled to pre-arrest bail.

3. Learned APP by relying on the papers of investigation has contended that in pursuance of the disclosure statement made by co-accused Balu Arkas, the stolen property i.e. Motor cycle of Bajaj Platinum came to be recovered. She further argued that on interrogation co-accused Balu Arkas revealed that the present applicant Ramesh Narayan Shinde is also involved in the crime in question and as some stolen property is yet to be recovered, the custodial interrogation is warranted.

4. The F.I.R. lodged by Mithun Zirpe, owner of the Automobile show room, goes to show in the intervening night of 4th February, 2016 and 5th February, 2016 there was theft in his show room and the thieves have stolen one Motor cycle of Bajaj Pulsar and another Motor cycle of Bajaj Platina, apart from a Laptop of Dell company and cash of Rs.10,000/-.

During the course of investigation, at the instance of accused Balu Arkas recovery of one motor cycle of Bajaj Platina came to be made. According to the prosecution case, co-accused Balu Arkas revealed that the applicant is one of the thief who committed lurking house trespass in night and consequent theft in the show room of the informant.

5. The papers of investigation contain statement of co-accused Balu. The remand report shows that co-accused Balu has only stated the name of his associates as Ramesh Shinde. The remand report shows that accused Balu has not disclosed the full identity of his co-accused. The statement of Balu recorded on 5th February, 2016 found with the papers of investigation shows that name of his associated was Ramesh Shinde. It was after two months, the co-accused Balu and that too after his release on bail has allegedly stated that his associate was Ramesh Narayan Shinde.

6. Learned APP has not dispute the fact that the present application has no criminal antecedents. Learned APP further argued that she has not received instructions from the Investigating Officer in this regard. This is a very sorry state

of affairs that after receipt of the copy of the application in the month of March, 2016, the learned APP has not taken full instructions to oppose the application. It is expected from the learned APP that as a prosecutor, the matter should be dealt with due responsibility.

7. It is thus seen that there is no material to connect the applicant / accused to the crime in question, except vague statement of co-accused. Considering the nature of evidence against the applicant / accused as well as the fact that no criminal antecedents, if any, of the applicant / accused are brought on record, I am of the opinion that the custodial interrogation of the application / accused is not at all warranted. The presence of the applicant / accused can be secured by directing the applicant / accused to attend the police station. Hence the order:-

- (i) Applicant / accused in Crime No.27/2016 for the offences punishable under sections 454, 457 and 380 of the Indian Penal Code registered with Karkamb Police Station, Solapur in the event of his arrest be released on bail on his executing P.R. Bond in the sum of Rs.10,000/-

with one or more surety in the like amount;

- (ii) As a condition of this order, the applicant / accused shall attend Karkamb police station, Solapur on every Tuesday between 11.00 a.m. to 1.00 p.m. for a period of one month from today and thereafter he shall report to the Investigating Officer as and when called by him;
- (iii) Applicant / accused shall not directly or indirectly make any inducement, threat or interact with person so as to dissuade him acquainted with the facts of accusations against him from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;
- (iv) Applicant / accused shall inform his latest place of residence and cell number after his release and continue to inform the change in residence or cell number, if any, from time to time to the Investigating Officer of the concerned police station and on filing the charge-sheet to the concerned Court;
- (v) Applicant / accused shall not commit an offence similar

to the offence of which he is accused or suspected of the commission;

(vi) Applicant / accused shall not leave India without the prior permission of the concerned Court;

(vii) The application is disposed of accordingly.

(A.M.BADAR, J.)