

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 690 OF 2016

Bharat L. Kheva and ors. vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
--	---------------------------

Mr. K.S.Patil for the Applicant.

Mrs. Rutuja Ambekar, APP. for the State.

CORAM : A.S.GADKARI, J.

DATE : 26th August, 2016

P.C.

1) This is an application under Section 438 of the Cr.P.C. The applicants are apprehending arrest in Cr No.20/2016 dated 5.12.2016 registered with Talasari Police Station, District Thane under Section 395, 397, 353, 186, 333, 504 and 506 of the Indian Penal Code.

2) The first information report is lodged by Ashok Rajaram Choudhary a constable attached to State Excise Department, Dahanu, District Palghar. It is stated in the said report that on 4.12.2016 at about 9.00 p.m. when the informant along with other staff of excise department was

on duty for checking illegal transport of liquor from Union Territory of Daman to the State of Maharashtra, they received confidential information that Motor vehicle bearing No. MH-48-P-9542 is transporting illegal liquor from Daman to Mumbai and that a trap was accordingly led at Village Udhawa Kodad road. The staff from the State Excise Department subsequently noticed the said vehicle bearing NO.MH-48-P-9542 and pick up Van bearing No.DN-09.The said staff thereafter accosted the said vehicle and were taking for further procedure at Dahanu. At that time the applicant Nos. 1 to 4 came in a four wheeler vehicle bearing registration No.GJ-06-902 and tried to take away the said vehicle bearing No. MH-48-P-9542. Despite their resistance the first informant and other constable Shri. Santosh Pawar brought the said vehicle at Udhawa police chowki and other two constables took over the vehicle bearing No. DN-09 towards Udhawa. The first informant subsequently received the information from the constable Shri. Keshav Bhurkud that at Bhavanpada some persons came from another car and took the seized vehicle forcibly.

It is further stated that at about 11.30 p.m. the applicants 1 to 4 came at Udhawa police chowki and demanded the key of the first vehicle from the informant. When the informant refused to gave the key the applicant No.2 Balu and the persons accompanying him assaulted Keshav with the wooden log. Thereafter, the applicants 1 to 4 abused the informant in filthy language. The applicant No.2 thereafter caught hold the shirt of the informant and assaulted him with a stick. The another constable namely Sameer Bhosale was also assaulted. The first informant has further stated that he and other constable Keshav Bhurkud were admitted to hospital. Shri. Keshav Bhurkud informed him that the applicant No.2 and other persons assaulted him with wooden log. In the premise, the first information report is lodged by the said informant.

3) I have perused the papers of investigation. It prima facie appears that the name of the applicant No.5 Dilip Dhanga has neither been mentioned in the first information report, nor he has played any role in the present crime. The version of the first informant is duly

corroborated by the Medical Certificate of Constable Keshav Bhurkud and Ashok Choudhary working in the State Excise Department. Apart from the afore stated facts there are two other crimes registered against the Applicant No.1 and while he was on bail in the said crime, he has committed the present crime. As far as Applicant No.2 is concerned, the police report shows that he is involved in nine crimes and when he was on bail in the said crimes, he has committed the present crime. After perusal of the first information report and the documents pertaining to the investigation it is clear that the Applicants No. 1 to 4 have played the entire role in the commission of the present offence. As far as applicant No.5 is concerned he has played no role in the present crime.

After taking into consideration the serious allegations against the applicant Nos. 1 to 4 and the gravity of the offence including the fact that the public servants performing their lawful duty were assaulted by the applicants, which according to me itself is a serious crime. I am of the opinion that this is not a fit case to grant

pre arrest bail to applicant Nos. 1 to 4. As far as applicant No.5 is concerned, he is entitled to pre-arrest bail.

4) Hence, the following order.

a) The present application for pre arrest bail of Applicant Nos. 1 to 4 is rejected.

b) In the event of arrested of the applicant No.5 Dilip Lakhama Dhanga in CR No.20/2016 registered with Talasari Police Station, Dist. Palghar, he shall be released on bail on his furnishing PR bond of Rs.20,000/- with one or two solvent local sureties in the like amount.

c) The applicant No.5 shall attend the Investigating Officer as and when called for till filing of the charge sheet.

c) The applicant No.5 shall not tamper with the evidence and/or influence the prosecution witnesses.

d) Application is partly allowed in the aforesaid terms.

(A.S.GADKARI, J.)