

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 984 OF 2016

Shri Rohidas Kisan @ Krushna Dhumal ... Applicants.
& 3 Others.

V/s.

The State of Maharashtra ... Respondent.

Mr. Y. G. Shinde, Advocate u/by Prashan M. Patil, Advocate
for the Applicants.

Mr. Arfan Sait, APP for the State.

API-Mr. S.B.Bansode (Bhor Police Station) is present.

CORAM : A. M. BADAR, J.

DATE : 23rd JUNE, 2016

P.C. :

1 Applicants/accused in Crime No. 51 of 2016 for the offences punishable under sections 427, 379, 447, 323, 504, 506 read with 34 of the Indian Penal Code and under sections 3(1)(v) and 3(1) (x) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989, registered with Bhor Police Station, Dist. Pune, by this application under section 438 of the Criminal Procedure Code, are praying for pre-arrest bail.

2 Heard the learned counsel appearing for Applicants /accused as well as the learned APP for the State. The learned

counsel for the applicants argued that in fact applicant no.1-Rohidas Dhumal is owner of the part of land in Gut No. 592 of village Pasure and that he is cultivating the land under his ownership. However, according to the learned counsel for applicants a false FIR lodged by the informant as there was dispute between applicants and the prosecuting party. My attention is drawn to previous complaints lodged by applicant no.1-Rohidas as well as villagers of Pasure, alleging encroachment and threats by the present informant. Learned counsel further argued that so far as S.C. & S.T. Prevention of Atrocities Act is concerned, allegations are also as against applicant no.1.

3 As against this, learned APP relying on papers of investigation argued that on the very next day of incident, a complaint was lodged by the informant to the Dy. Superintendent of Police, Bhore Division, Saswad. Learned APP further argued that the statement of witnesses goes to show that the applicants are involved in the crime in question.

4 Perused the papers of investigation including the FIR. It is alleged by the informant that his father - Anil Gaikwad has purchased field Gut No. 592, admeasuring 87 ares and field in Gut No. 593, admeasuring 150 ares at village Pasure. According to the informant he and his family members were cultivating that field. On 03.05.2016 he and his father as

well as one Rushikesh were going to their field and on their way, their employee Shankar Dhumal told them that applicant no.1 - Rohidas Dhumal is committing theft of agricultural produce from the field. It is further averred that the informant found that applicant no.1-Rohidas was harvesting groundnuts and taking away agriculture produce by means of tractor from his field. The informant further averred that upon being questioned, applicant no.1- Rohidas opposed his father and caused intentional insult by humiliating his father by casteist remarks.

5 So far as intentional insulting and humiliation by casteist remarks is concerned, it is attributable to applicant no. 1-Rohidas alone. The investigation officer has alleged offence under sections 3(1)(x) and 3(1)(v) of SC & ST Prevention of Atrocities Act. During the course of investigation statements of two witnesses are recorded which support the version of the informant on this aspect and therefore, applicant no.1-Rohidas cannot be granted relief as claimed because of bar under the provisions of SC & ST (Prevention of Atrocities) Act.

6 So far as other applicants are concerned, considering the nature of allegations made against them, it is crystal clear that no offence punishable under the provisions of SC & ST (Prevention of Atrocities) Act against them is prima

facie made out. Hence provisions of section 18 of the said Act are not applicable to them.

7 Considering the nature of the averments made against the rest of the applicants, their custodial interrogation is not necessary and therefore, their application deserve to be allowed. Hence the following order :-

ORDER

- i. The application is partly allowed.
- ii. Application of Applicant No.1-Rohidas Dhumal is rejected.
- iii. In the event of their arrest, Applicant Nos. 2 to 4 be released on bail on their executing PR Bond in the sum of Rs. 5000/- each and on furnishing surety in the like amount by each of them.
- iv. As a condition of this order, Applicant Nos. 2 to 4 should attend the Bhore Police Station, Dist. Pune as and when reasonably called by the investigating officer and co-operate investigating officer in investigation of the crime in question.

- v. In addition, said applicants/accused are directed that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade such person from disclosing such facts either to the Court or to any police officer and that they shall not tamper with the prosecution evidence in any manner.
- vi. Applicants should co-operate for expeditious disposal of the trial, in the event of filing of the charge-sheet.

(A. M. BADAR, J.)

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