

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

ANTICIPATORY BAIL APPLICATION NO.1031 OF 2016

Prathamesh Sudhir Kanade ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Mr.S.R.Gowd i/b. M.R.Gowd, Advocate for the Applicant.

Mrs.Rutuja Ambekar, APP for the Respondent/State.

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CORAM : P. N. DESHMUKH J.

DATED : 15th JULY 2016.

P.C.

1 This is an application for anticipatory bail by accused involved in Crime No.68 of 2016 registered by Agripada Police Station, Mumbai on 09/03/2016 for the offences punishable under Sections 387, 323, 506, 504 read with Section 34 of the Indian Penal Code.

2 Heard learned counsel for both the sides. The learned counsel for the applicant has submitted that there is no role attributed to the applicant by the complainant in the FIR and has submitted that co-accused Prashant, whose name is in the FIR has already been released on regular bail. It is also pointed out that name of the applicant is not mentioned in the FIR. It is also

submitted that there is no criminal antecedents against the applicant, nor from the contents of report, it can be said that the applicant was instrumental in the present crime for the the offence of extortion.

3 The learned Additional Public Prosecutor has submitted that investigation is in progress and there is sufficient evidence establishing involvement of application in the crime and has referred to some statements thereby contending that from statements of these witnesses applicant's presence is established on the spot.

4 Perused the documents filed with the application as well as case diary. From the contents of report, it reveals that on 09/03/2016 co-accused Prashant has visited to the construction site of complainant and inquired as to who was the supervisor, upon which one Pravin Choudhari, who was present introduced himself as supervisor with one V.P.Singh, when co-accused Prashant abused Pravin Choudhari and manhandled him and one Shabab Ansari-Road Roller driver. From further contents of report, it reveals that complainant, therefore, said to co-accused Prashant that his purpose of extracting money can not be served by assaulting them as their construction was legal and if co-accused Prashant has any objection, he should approach the police.

5 Having considering the contents of report, as aforesaid, there appears no involvement of applicant in the incident dated 09/03/2016 as described above.

6 The learned Additional Public Prosecutor with reference to involvement of applicant has invited my attention to the version of two witnesses. On perusal of said statements, it appears that name of applicant came to be disclosed by co-accused Prashant Gaikwad. As such, except for name of applicant being disclosed by co-accused, there is no independent evidence establishing his involvement in the present crime.

Moreover, applicant is protected by interim pre-arrest bail by the learned Special Court by its order dated 11/03/2016, which was in force till 16/06/2016 and thereafter by order of this Court dated 21/06/2016. During the period as aforesaid, applicant has attended investigating Officer as many as 76 times. The learned counsel for the applicant has also produced at bar proof of applicant's attendance before the Investigating Officer.

7 In that view of the matter and considering the nature of evidence available against the applicant, application is liable to be allowed by confirming interim protection granted on 21/06/2016 as per order below :

- (i) In the event of arrest of applicant in Crime No.68 of 2016 registered by Agripada Police Station, Mumbai, he shall be released on bail on his executing personal bond in the sum of Rs.15,000/- with one surety in like amount.
- (ii) Applicant shall mark his presence with Investigating Officer as and when called till filing of charge-sheet.
- (iii) Applicant shall provide proof of residence to the Investigating Officer.

(P. N. DESHMUKH J.)