

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

ANTICIPATORY BAIL APPLICATION NO.1211 OF 16

Sita Shankar Baria & Ors. ... **Applicants**

V/s.

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

.....

Mr.Prashant G.Karande, Advocate for the Applicant.

Ms.S.S.Kaushik, APP for the Respondent/State.

Mr.Ramesh Wagh, IO, PI Versova Police Station

....

CORAM : P. N. DESHMUKH J.

DATED : 20th JULY 2016.

P.C.

1 The learned counsel for the applicant seeks leave to amend the title cause of application by correcting the name of applicant No.4 as 'Jitendra alias Jitu' instead of 'Vijay'.

2 Amendment to be carried out forthwith.

Keep back at 3.00 p.m.

At 3.00 p.m.

3. Heard.

4 Applicant involved in Crime No.318 of 2015 registered by Versova Police Station on 23/09/2015 for the offence punishable under Section 341, 324, 354(b) read with Section 34

of the Indian Penal Code and Section 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, has sought anticipatory bail.

5 At the outset, the learned counsel for the applicant has submitted that applicants are falsely implicated in a case as applicants being fishermen by tradition are indulged in drying and selling fish on a piece of land owned by Government, use of which was objected by the family members of complainant and in that event false complaint came to be lodged, as aforesaid and thus submitted that application be allowed, as applicants are falsely implicated.

6 The learned Additional Public Prosecutor has opposed the application on the ground that the statement of prosecutrix establishes involvement of applicant Nos.3-Shankar and No.4-Jitu and has submitted that custodial interrogation of applicants is necessary for the purpose of recovery of *bamboo* and stone and has contended that though applicants were protected by interim order of learned Additional Sessions Court from December 2015, they had not attended the Investigating Officer.

7 On this aspect, the learned counsel for the applicant has submitted that interim protection was granted to applicants by oral orders and since there were no directions given to applicants

to attend Police Station, there was no reason for applicants to attend the same.

8 In the background of submissions advanced, as aforesaid, though from statement of prosecutrix involvement of applicant No.3-Shankar and No.4-Jitu is found and from the contents of report lodged by Ranjana involvement of applicant Nos1 and 2 along with applicant Nos.3 and 4 is established, statement of prosecutrix as well as complainant when considered along with case of applicant of their false implication and on perusal of documents filed with the application, it reveals that prior to lodging report on 23/09/2015, out of which present application arose, on 11/08/2015 mother of applicant Nos.1 and 2 Smt.Laxmi Parmar had lodged complaint with Versova Police Station against Rajesh Thakur, who is real brother of complainant Ranjana contending that he was obstructing Laxmi Parmar and her family members, who are traditionally fishermen from using two plots of land admeasuring 20 ft. x 30 ft. owned by Government for drying and selling fish.

It further reveals that prior to that on 08/08/2015 and 27/08/2015 NC complaints are filed by Laxmi Parmar against Virubai Thakur and Rajesh Thakur, who are in relations with complainant Ranjana Thakur. Considering said facts, there appears much substance in the case of applicant of their false implication in the report dated 23/09/2015.

9 At this stage, the learned Additional Public Prosecutor submits that as applicants and complainant are resident of same locality, in the event applicants are granted anticipatory bail, there is possibility of law and order problem.

 Having considering apprehension put forth by the learned Additional Public Prosecutor, as aforesaid, application is allowed by imposing conditions as below :

- (i) In the event of arrest of applicants in Crime No.318 of 2015, they shall be released on bail on their furnishing personal bonds in the sum of Rs.15,000/- each with one or two sureties to make the like amount.
- (ii) On release on bail, applicant shall attend Investigating Officer on 23rd and 24th July 2016 between 10.00 a.m. to 12.00 noon., and thereafter as and when called till filing of charge-sheet.
- (iii) Applicant shall co-operate with the investigation and shall not tamper with the evidence.
- (iv) Applicant No.3-Shankar and Applicant no.4-Jitu shall not enter the jurisdiction of Versova Police Station till filing of charge-sheet, except for attending said Police Station on 23rd and 24th July 2016.

9 Application is disposed of accordingly.

(P. N. DESHMUKH J.)