

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1456 OF 2016

Suresh Narayan Lad	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Aniket U.Nikam, Advocate for the applicant.
Mr. Arfan Sait, APP, for the State.
Mr. A.I.Mulla, PI, Karjat Police Station Raigad, present.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 22nd August, 2016.

P.C.

1. Heard the learned counsel for the applicant.
2. This is an application seeking pre-arrest bail, by way of ad-interim relief, during the pendency of the application filed by the applicant under Section 438 of Cr. P.C. before the Sessions Court at Raigad.
3. The learned counsel for the applicant has initially submitted that the application before the learned Sessions Court seeking pre-arrest bail in Crime No.137 of 2016 registered with Karjat Police Station for the offence punishable under Sections 353, 363, 332, 341, 323, 506, 186 of the Indian Penal Code was filed before the Sessions Court on 18.8.2016. On 19.8.2016, the Investigating agency had issued a notice to the applicant

under Section 41A of the Code of Criminal Procedure, 1973 and had requested the applicant to remain present before the investigating officer on 20.8.2016. The learned counsel further submits that the applicant had marked his presence before the investigating officer on 20.8.2016 and the same has not been considered by the learned Sessions Judge. However, it is a matter of record that the application below Exhibit 4 seeking ad-interim relief was rejected on 18.8.2016 itself and therefore there was no reason for the learned Sessions Judge to consider the said aspect on 18.8.2016. It is further submitted that as on today, it would be incumbent upon this Court to consider the aspect that the applicant has co-operated with the investigating agency by marking his presence before the Investigating officer on 20.8.2016. It is also a matter of record that the learned Addl. Sessions Judge, Raigad – Alibag has posted the main application under Section 438 of Cr.P.C. filed by the applicant for final hearing on 26.8.2016

4. The learned counsel for the applicant seeks ad-interim protection in favour of the applicant till 26.8.2016 without going into the merit of the matter. The learned counsel further submits that the applicant is being prosecuted for the offences which are punishable for less than 7 years and, therefore, the applicant being the elected representative would be entitled,

by way of ad-interim protection. It is also submitted that the applicant being the elected representatives would be subjected to social ridicule in case he is arrested or taken into custody during the pendency of the present application.

5. To appreciate this submission, this Court was constrained to go into the merits of the matter. It appears that on 11.8.2016, The Special land Acquisition Officer had summoned the farmers to answer or respond to the quantum of compensation which was to be awarded for the land acquired by the State Government for a particular project. According to the learned counsel, in fact, the final notification of land acquisition was not issued and, therefore, it would not have been appropriate for the officer to call upon the farmers to ascertain or determine the quantum of compensation. After the incident, the applicant had forcibly taken the complainant to the police station and had instigated the farmers to lodge a report against the informant that he is proceeding with the land acquisition without final notification.

6. It appears that the farmers had appeared before the complainant, who happens to be the Deputy Collector (Land Acquisition Officer) in his office premises. When the officer was inclined to commence the proceedings, the farmers had requested him not to

commence the proceedings and wait for the arrival of the present applicant who happen to be their elected representative.

7. In the meanwhile, the Deputy Collector had requested the other officers to seize the records and keep it in a safe place since he had previous experience that the present applicant on 14.1.2016 had taken away the records without the knowledge of the Deputy Collector and had given the same to the Police Station. It was in these circumstances that the first informant was constrained to ensure the safe custody of the documents. It further appears that after giving instructions, the first informant had retired to the washroom. In the meanwhile, the applicant had arrived and had started abusing the complainant as well as the officer Mr. M.B.Patil, who also happens to be a retired Naib Tehsildar. Soon thereafter, the applicant is alleged to have virtually abused and physically assaulted Shri M.B.Patil and when the first informant had intervened the applicant had caught hold of him by the neck and had slapped him. It also appears from the submission of the learned APP that someone from the crowd had taken a video shooting of the whole episode. The said episode had gone viral on social media as well as they are shown as clippings on all news channels.

8. It is necessary to consider this aspect for the simple reason

that this Court is to consider as to whether the arrest of the applicant would subject him to social ridicule because a damage has been done to a high ranking public servant who was exposed to social obloquy on all channels and the social media. It was not only humiliation for the public servant, but a matter of pride for the elected representatives as well as the State Government and also the farmers that a public servant had been physically assaulted by an elected representative in his office. The protection of the elected representative in such an offence would give a leverage to the other political workers and elected representatives to deal with the public servant in the manner which would not befit administration of the executive. There is no fear of law and the elected representative may continue to use their power over public servant. The elected representative cannot take the law in their own hands and ought to have followed the due procedure of law.

9. At this stage, when this Court is not inclined to grant protection to the applicant till 26.8.2016, the learned counsel for the applicant had also submitted that in that eventuality, he would withdraw the said application. However, since the matter was heard on merits and that was pertaining to a subsequent event i.e. co-operating with the investigating agency after rejection of the application below Exhibit 4, it was necessary to consider all these aspects. However, the learned Sessions Judge shall

consider the main application on its own merits without being influenced by any of the observations made by this Court in the present application. The learned Sessions Judge shall make an endeavour to hear the application finally on 26.8.2016.

Application stands disposed of in the above terms.

10. Office to communicate this order to the concerned Court forthwith.

(SMT.SADHANA S.JADHAV, J.)