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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1415 OF 2016

Naveen Kumar Sharma and Anr. ..Applicants.

V/s.

State of Maharashtra ..Respondent.

Mr.Niranjan Mundargi i/b. Mr.Omkar Prashant Mulekar for the applicants.

Smt.R.M.Gadavi, APP for respondent-State.

Mr.S.R. Ganbhavale for the intervenor.

CORAM : AM.BADAR, J.

DATED : 9TH JUNE, 2016

P.C. :-

1. Applicants / accused in Crime No.65/2016 for the offences punishable under sections 307, 504, 506 read with 34 of the Indian Penal Code, 1860 registered at the instance of Dipti Naveen Sharma with Dehu Road police station, Pune by this application under section 438 of the Criminal Procedure Code, 1973 are praying for pre-arrest bail.

2. Heard the learned counsel appearing for the applicants. According to him, the falsity of the F.I.R. is writ

large from the CDR collected by the Investigating Officer during the course of the investigation. Applicant No.1 was not present at all at the spot of incident and considering the enmity between the spouse, he is falsely roped in the crime in question.

3. The learned APP opposed the application by contending that the offence alleged is serious in nature and the prosecution case is supported by injury certificate of both the victims. He further argued that the statement of the child witness recorded by the Investigating Officer supports the story of the injured informant.

4. I have also heard the learned counsel for the informant. He submitted that considering the nature of offence and the statement recorded under section 164 of the Criminal Procedure Code, 1973 applicants are not entitled to pre-arrest bail. He further argued that since inception, the police machinery has not taken the report seriously.

5. Informant Dipti, on 13th March, 2015 has reported that in terms of the order of the learned Family Court, she has

met her son Arjun on 7th March, 2015 and at that time she informed her husband / applicant No.1 Naveen that as she has no place to reside at Pune and she is coming to his house for staying there. According to the prosecution case, on 12th March, 2015, Dipti accompanied by her brother Purshottam and one Anwar had been to the house of the applicants. According to the prosecution case, at the house of the present applicants, both the applicants attempted to commit murder of Dipti as well as her brother Purshottam by strangulating them by means of odni and also pressed their necks with hand. It is further alleged that applicant No.1 Naveen had also assaulted Purshottam by means of fist blows.

6. Perusal of the papers of investigation shows that CDR of cell phone of applicant No.1 Naveen Kumar are collected by the Investigating Officer. Prima facie, it is seen that at the time of the alleged incident, applicant No.1 Naveen Kumar was at Shivaji Nagar area, District Court, Pune and thereafter at Pashan. This material collected during the course of investigation, prima facie supports the contention of applicant No.1 Naveen that at the relevant time he was at Shivaji Nagar Court, Pune and after getting phone call from his

mother / applicant No.2 he went to the office of the Superintendent of Police and thereafter returned to his house. Though this '*falsus in uno falsus in omnius*' is a theory unacceptable in criminal jurisprudence, while considering the pre-arrest bail the falsity of allegations against applicants is a relevant factor. Considering the chequered history of the matrimonial dispute between the parties, I am of the opinion that possibility of false implication of present applicants in the crime in question in order to settle the score cannot be ruled out. Even otherwise, though it is averred that Purshottam was assaulted by fist blows no such corresponding injury was found on his person though he was medically examined on the same day. Considering the nature of evidence against applicants, personal liberty of both applicants need to be protected. Hence the order.

- (i) The application is allowed;
- (ii) Ad-interim order dated 23rd September, 2015 granting anticipatory bail is confirmed on the same terms and conditions;
- (iii) In addition, applicants / accused shall attend police

station, Dehu Road, Pune. on 19th and 26th June, 2016
between 11.00 a.m. to 1.00 p.m.;

- (i) Applicants / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against applicant so as to dissuade him from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;
- (ii) Applicants / accused shall co-operate for expeditious disposal of the trial;
- (iii) Applicants / accused shall not commit an offence similar to the offence of which they are accused or suspected of commission;
- (iv) The application is disposed of accordingly.

(A.M.BADAR, J.)