

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1852 OF 2016
Ganesh Vasant Sapte vs. The State of Maharashtra and anr.

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. P.V. Vare for the applicant.
Mrs. J.S.Lohokare,APP for the Respondent-State.

CORAM :A.S.GADKARI, J.
DATE : 21st October, 2016

P.C.

1. This is an application under section 438 of the Cr.P.C. for pre arrest bail in CR No.320 of 2015 dated 24.10.2015 registered with Amboli Police Station, Mumbai under sections 452, 379, 427, 504, 504 read with 34 of the Indian Penal Code.

2) The first information report is lodged by Balkisan Yadav. It is stated that he was residing in a hut made up of tin sheets. The said hut was admeasuring 10x7ft. He therefore, decided to replace the said tin sheets by brick walls and for that purpose he collected necessary material i.e. bricks, sand and cement. That, on 21.10.2015 in the evening the construction of the said room was carried out upto 4ft. height. On 22.10.2015 the applicant along with other accused persons went to the site and threatened the complainant to stop the work. On 22.10.2015 at about

15.00 p.m.(3.00 p.m.) the said construction was carried out upto 6th ft. At that time the applicant along with other accused persons came at the spot i.e. the scene of offence and started demolishing the said wall. It is specifically averred in the report that the applicant along with co-accused thereafter committed the theft of 40 gunny bags of sand and 25 bags of cement from the scene of offence. In the premises, the first information report is lodged.

3) Heard the learned counsel for the applicant and the learned APP. and also perused the relevant documents annexed to the application.

4) The learned counsel for the applicant submitted that the complainant had been to the Police station on 22.10.2015 for depositing the fine amount on behalf of his workers, however, he did not lodge the first information report on that day. That, the first information report is lodged belatedly by the complainant. He submitted that the alleged offence has taken place on 22.10.2015 and after about two days the FIR is lodged and therefore there is no need for custodial interrogation of the applicant. He therefore prayed that the applicant may be granted pre-arrest bail.

5) The first information report is lodged on 24.10.2015 and the reasons for delay are mentioned in the first information report itself. It is specifically stated that the applicant is the associate of co-accused Rajan Parab who threatens the people from he vicinity, while doing the

repairing work of their houses and the people from the vicinity are reluctant to raise voice against the said person. It prima facie appears that the delay in lodging the FIR is satisfactorily explained by the informant. It is further to be noted that there is a specific and categorical allegation against the applicant that he and other accused persons have committed theft of 40 gunny bags of sand and 25 bags of cement on 22.10.2015 at about 3.00p.m. The material available on record prima facie clearly indicates the complicity of the applicant in the present crime. It is necessary for the Investigating agency to recover the stolen property and for that the custodial interrogation of the applicant is imperative.

6) After taking into consideration the serious allegations against the applicant, gravity of the offence and the clear complicity of the applicant in the offence, the applicant cannot be granted pre-arrest bail.

7) Application is accordingly rejected.

(A.S.GADKARI, J.)