

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1927 OF 2016

Ramdas Maruti KadApplicant

V/s.

The State of MaharashtraRespondent

Mr. Sudhir C. Halli Advocate for Applicant.

Ms. Veera Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 16th NOVEMBER, 2016.

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 1077 of 2016 registered at Chakan Police Station, Dist. Pune for offence punishable under section 304 part II r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that a report is lodged by P.S.I. of Chakan Police Station on 20/10/2016, alleging therein that on the day of incident i.e. on 20/10/2016, there was an information to the police station that there was a fire in Gat No. 428 which is owned by the present applicant and in the said fire, 5 persons had died. It is alleged that the present applicant had given on rent the godown premises in a residential area for using it for

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commercial purposes and the same was being used for manufacturing hand gloves. The waste cotton in the shed which was erected by the present applicant. It is also alleged that no precautions were taken for extinguishing fire in case of emergency and that there was no access road. It was hazardous to the residents of the said area.

3) The learned counsel for the applicant vehemently submits that applicant is not the owner of the said building. The learned counsel for the applicant has placed reliance upon the leave and licence agreement executed between his brother Babasaheb Kad and the proprietor of Sana Enterprises, Mr. Khan. It is agreed between the parties that the licensor shall provide separate electric meter, sub-meter, connection for light load required by the licensee. The licensee shall regularly pay the rent within 15 days for the electricity consumed by the licensee as per the sub-meter. It was also agreed that the licensor shall provide to the licensee and his employees, staff and workers, at his cost, enough drinking water and water for toilet for maximum 100 persons per day. Clause 'L' reads as:

“Licensor has granted licensee to use for storing, manufacturing of goods, only the built up portion in the premises including the toilet

situated outside the premises”.

4) The agreement was notarized document. In the course of investigation, statements of Rajendra Kad was recorded. He is the nephew of the present applicant and he has specifically stated that in the said building, applicant had erected tin sheds and the proprietor of Sana Enterprises used to store his cotton waste in the said shed and the said premises was given on rent for manufacturing hand gloves and socks. It is also stated that the applicant used to receive the rent for the said tin shed. It is also specifically stated that adjacent to the shed, applicant has erected the shed which is given on rent as saloon and one hotel i.e. Mauli hotel. Just adjacent to Sana Enterprises, applicant has erected three storied building and all the rooms were given on rent. It appears that there are illegal constructions which have been built by the applicant and his brother.

5) As far as the incident is concerned, it is stated by the witnesses that the fire had taken place in the shed of the present applicant which was given on rent to Sana Enterprises. That the fire brigade had to take special efforts to reach to the spot as the said premises was not accessible. Since there was no proper access the victims could not be saved. Dnyaneshwar Kad has stated

before the police that tin shed erected by the present applicant which was given on rent to Sana Enterprises had caught fire and that because of the building erected by the present applicant, the road was not accessible. In fact, the agreement was with the brother of the applicant but the waste cotton was stored in the tin shed of the present applicant and that there was no electric meter. He had permitted the labours of Sana Enterprises to use it. The statements of all witnesses including Babasaheb Kad would also show that applicant was running a saloon and hotel next to the shed. Hence, applicant does not deserve to be granted pre-arrest bail as 5 persons have died in an accident.

6) The learned counsel for the applicant has vehemently stated at the outset that he is not the owner of the said premises and therefore, the allegations in the F.I.R. are falsified. In fact, the applicant had given on rent this tin shed and was receiving rent from Sana Enterprises. The waste cotton was stocked in the shed of the present applicant and the said shed caught fire in which 5 persons died.

7) Taking into consideration the statements of the witnesses and the papers of investigation, applicant does not deserve grant of pre-arrest bail. Hence,

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application stands rejected. In the eventuality that the applicant surrenders and is produced before the Magistrate, the learned Magistrate shall not be influenced by the observations made herein above.

(SMT. SADHANA S. JADHAV, J.)