

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2142 OF 2016

Ahmed Masood Ahmed (Azad)

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. N. R. Bubna Advocate for the Applicant.
Ms. Veera Shinde APP for the State.
Mr. Prakash Patil, P.S.I. Ranranpura Police
Station, Malegaon, Nashik.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 15th DECEMBER, 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. 109 of 2016 registered at Azad Nagar Police Station, Malegaon for offence punishable under sections 383, 384, 389, 420, 463, 464, 465, 467, 468, 470 of the Indian Penal Code and section 3 (1) (f) and 3 (1) (g) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2) It is the case of the prosecution that one Dashrath Sonawane filed a

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complaint before the Judicial Magistrate First Class, Malegaon alleging therein that he was allotted a piece of land at survey no. 199/2 admeasuring 91 R. That he belongs to a tribal community and the land allotted to him cannot be sold without the permission of the Competent Authority. The complainant has alleged that the accused Jabir Khan Sattar Khan had claimed ownership of the said land on the ground that he had purchased the said land from the complainant. According to the complainant, an agreement was executed between the complainant and the original accused no. 1 to that effect and the applicant happened to be an attesting witness. The complainant has alleged that the accused fabricated documents to show that he had created third party interest in favour of original accused no. 1.

3) On 03/11/2010, he had issued notice through his Advocate to the original accused no. 1. It appears that the complainant had filed civil suit bearing R.C.S. No. 194 of 2010. The said suit was dismissed by order dated 16/01/2012. It is the allegation that there was a dispute between the original accused no. 1 and the complainant and the applicant has been arraigned in the said case only by virtue of his being an attesting witness.

4) The learned counsel for the applicant submits that applicant had no

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knowledge about the transactions between the complainant and the original accused no. 1. After the dismissal of the suit, private complaint was filed. The learned counsel submits that complaint was filed only because of dismissal of the civil suit.

5) Be that as it may, taking into consideration the papers of investigation and the allegations levelled against the applicant, this court is of the opinion that applicant deserves to be granted pre-arrest bail. However, it is made clear that observations made herein above are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 50,000/- with one or more solvent sureties in the like amount.
- (iii) Applicant shall report to the concerned police station from 24/12/2016 to 27/12/2016 and co-operate with the investigating agency to the best of his capacity.

(iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)