

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1898 OF 2015

Chandrakant Raghu Gorakhana & Ors.. Applicants

Versus

The State of Maharashtra .. Respondent

Mrs.Vrishali R. Raje, Advocate for the applicants.

Mrs.Rutuja Ambekar, APP for the Respondent State.

Mr.Sugandh N. Narsule, HC-1357 from Dahanu PStn present

CORAM : PN. DESHMUKH, J

DATED : 18th JULY, 2016.

P.C. :

1 Heard learned counsel for both the sides.

2 Both the applicants involved in Crime No.I-85/15 registered by Dahanu Police Station, Palghar on 26th June 2016 initially for the offences punishable under sections 143, 144, 147, 149, 336, 430 and 436 of the IPC, wherein subsequent offences punishable under sections 380, 384, 395, 452, 447 appears to be added, had sought Anticipatory Bail. Counsel for the applicants had submitted that some land was allotted to complainant for running a *Prawns* Project to which villagers have objected. Said land was adjoining to the creek. Considering the objections raised by villagers, Tahsildar concerned instructed complainant to not to proceed with said Project. However, complainant unauthorizedly

carried the work. It appears that application arises out of an offence wherein more than 100 – 150 persons are involved who are found to have attacked said *Prawns* Project and caused damages to the property. Amongst co-accused admittedly, some are already released on regular bail by the learned Sessions Court. Learned counsel for the applicants has thus prayed for grant of Anticipatory Bail as no involvement of applicants can be established from the contents of FIR.

3 Learned APP has opposed the application on the ground that applicants are involved in a conspiracy hatched with other co-accused and their names are in the FIR and are also involved by eye witnesses to have taken active part in the alleged offence and has also provoked other co-accused. Learned APP, on instructions, makes a statement that investigation is likely to be completed within a period of one week.

4 With reference to the application on persual of documents on record, it reveals that informant Rajesh along with his partner Naresh, the complainant had obtained certain land on rent basis at Village Saravali, and on obtaining necessary permission from the authorities, have started *Prawns* Project by creating five ponds and procuring necessary machinery and engaging workmen. On 26th June 2015, at around 11.30 am, when complainant's partner Naresh and his friend Hardik were present at the site, mob of around 150 persons came armed with spades, sticks, iron bars, etc and extended threats to them directing to close the *Prawns* project. In the mean time, complainant also arrived. In the course of some transaction, members of said

assembly set fire to the generator room and caused damage to the temporary sheds which were constructed at the site, and thus caused loss to the extent of Rs.50 to 60 lakhs by causing damage to the complainant's property.

5 Learned counsel for the applicants has annexed with the application, letter dated 25th May 2015 addressed by Tahsildar, Dahanu to complainant Rajesh and his partner Naresh and on relying upon it submitted that as there was opposition to complainant's Project by the villagers, apprehending law and order problem, the revenue authorities after having consultation with each other, had decided that till further orders, complainant should not proceed with his project at the site. It was also submitted that in the event of any Law and Order problem, complainant shall be responsible. However, complainant without paying any heed to such administrative directions by the competent authority, continued with the project and within one month, above incident took place.

6 Learned counsel for the applicants has also relied upon affidavit of Superintendent of Police, Palghar-Shri.Shrikrishna D. Kokate. On perusal of same, said Officer has stated on oath that the local police and staff should have taken strong measures to prevent the commission of said offences, and the Station House Officer, Dahanu and Special Branch Police Constable Dahane were, as such, found to be unsuccessful, to consider the obvious situation and thus, directed to take preventive measures, and has further stated that Sub-Divisional Police Officer, Dahanu Division to conduct inquiry against the concerned for failure of averting law and order situation.

7 Having considering the Tahsildar's report together with the affidavit, as aforesaid, it thus appear that in fact, the Government authorities, about one month prior to the incident, had directed complainant and his partner to not to proceed with Prawns business, which instructions were not followed by them. The involvement of applicants in the present crime, is that of their being members of unlawful assembly of 100 – 150 persons. Admittedly, some of the co-accused are already released by the learned Sessions Court on bail.

8 Learned APP, during the course of arguments had tendered at the bar police report contending that applicants are criminal elements having criminal antecedents. Learned counsel for the applicants, on obtaining instructions, has stated that name of applicant nos.1, 2 and 3 are referred in three FIRs being FIR No.11/2013, 12/2013 and 69/2015. Crimes in these FIRs, however, appears to be bailable.

9 Against accused no.2, apart from above, two offences being Crime Nos.14/12, 8/13 are registered under the Essential Commodities Act, out of which in Crime No.14/12, said applicant is stated to be acquitted, and complaint in other offence is dismissed. There are no crimes registered against applicant no.4.

10 Considering facts, as aforesaid, the grounds raised by prosecution to refuse bail to applicants on above count, does not stand for any reason and considering the involvement of applicants as aforesaid, application is liable to be allowed as per order below.

ORDER

(i) In the event of arrest of applicants in Crime No.I-85/15 registered by Dahisar Police Station, they shall be released on bail on their executing P.R. Bond in the sum of Rs.20,000/- each with one surety each in like amount.

(ii) Applicants while on bail, shall mark their presence with Investigating Officer as and when called or till filing of charge-sheet, and thereafter shall attend Dahisar Police Station once in month until further order.

(iii) Applicants shall not tamper with the witnesses.

11 Application is disposed of accordingly.

(PN. DESHMUKH, J)