

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2156 OF 2016

Rakesh @ Takya Rajendra Sansare
V/s.

.....Applicant

The State of Maharashtra

....Respondent

Mr. Jitendra M. Pathade Advocate for the Applicant.

Mr. Y. M. Nakhwa APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 20th 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. 185 of 2016 registered at Malegaon Taluka Police Station, Malegaon for offence punishable under sections 395 and 397 of the Indian Penal Code. Applicant was absconding. For the first time, application under section 438 of the Code of Criminal Procedure, 1973 was filed before the Sessions Court at Malegaon on 23/09/2016.

2) It is the case of the prosecution that on 20/08/2016, one Yogesh Nima who happens to be the driver of a truck lodged a report at the police station that on 09/08/2016, he was carrying about 16 metric tons of garlic to be

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transported to Kerala. He was accompanied by his owner. When they were passing Malegaon Chaufuli, a big car had followed them. The persons travelling in the car had thrown chilly powder at the driver, after they had alighted from the said car. Thereafter, the driver, owner and the relative of the owner were assaulted. At about 4.30 p.m., they were way-laid and they were tied to a tree in an isolated place and thereafter, said persons had taken away the truck along with 16 tons of garlic valued at about 19 Lakh Rupees. Needless to say that the first information report was lodged against unknown persons. In the course of investigation i.e. on 26/08/2016, Sunil Kobarne was arrested. Remand Yadi would show that he had succumbed to the interrogation and had named his associates. Remand Yadi dated 31/08/2016 would show that Ambadas @ Kalya Irle was arrested from Devlali Pravara on 30/08/2016.

3) The learned counsel for the applicant submits that applicant has been falsely implicated only on the basis of the information given by the co-accused and that he is not concerned with the said offence. It is also submitted that the applicant is a student and therefore, he deserves to be granted pre-arrest bail.

4) It is pertinent to note that investigation is completed and charge-sheet is filed on 22/11/2016 wherein the applicant has been charge-sheeted under section 299 of the Code of Criminal Procedure, 1973. It appears that all the accused are from Ahmednagar District. Ambadas Irale is from Devlali-Pravara, Gorakshnath Yevale is also from Devlali-Pravara who is charged under section 299 of the Code of Criminal Procedure, 1973. The applicant also hails from Devlali Pravara.

5) The learned counsel for the applicant does not have a copy of the charge-sheet.

6) Perused the compilation of the charge-sheet. The Statement of Abdul Rashid Shaikh who happens to be a trader at Akola is recorded on 04/09/2016. He has stated that on 24/08/2016, Sunil Lonake was accompanied by 3 persons and they had approached him for selling the garlic. He had enquired that they with them as to from where they had got garlic and they had disclosed that they had purchased the garlic from farmers. He had to pay advance amount as ti was agreed that the amount would be paid in installments. He has specifically stated that in the eventuality he is confronted with the persons who had approached him, he would be able to identify them. This is a case of highway robbery. The custody of the applicant would be
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necessary for the purpose of conducting test identification parade. Moreover, he is charge-sheeted under section 299 of the Code of Criminal Procedure, 1973.

7) In these circumstances, applicant does not deserve the discretion relief under section 438 of the Code of Criminal Procedure, 1973. Hence, application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)