

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (ABA) NO.671/2015

Sheikh Ramzan Sheikh Gaffar and another

..Versus..

State of Maharashtra, through Police Station Officer, Police Station Sonegaon, Nagpur,
 Distt. Nagpur

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 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 9.3.2016

Heard Shri R.M. Patwardhan, advocate for the applicants and
 Shri N.B. Jawade, A.P.P. for the non-applicant.

The applicants are seeking pre-arrest bail apprehending arrest
 in crime registered against them for the offence punishable under
 Section 379 of the Indian Penal Code.

The accusations against the applicants are that the stolen
 scrap material was found in the shop of applicant no.1. The applicant
 no.2 is working as Manager in the shop of applicant no.1.

In paragraph no.4 of the application, the applicants have made
 serious allegations against the Investigating Officer to the following
 effect:

“4] It is submitted that on 21.11.2015 the officers of Sonegaon Police Station had been to the business premises of the Applicants and started making search of the premises without the permission of the Applicants. On query being made, the Applicants were threatened with dire consequences by the Police. In fact police removed the Camera installed in the shop of the Applicant and thereafter illegally took possession of two trucks loaded with scrap material. At that relevant time one person had accompanied the police.”

The reply filed by the non-applicant before this Court is conspicuously silent on the point.

The learned A.P.P. has shown the certificate issued under Section 65B of the Evidence Act of Cyber Forensic Expert which shows that the C.C.T.V. footage cannot be displayed for the period from 15th November, 2015 to 20th November, 2015. It is unexplained by the non-applicant as to why the Investigating Officer has not referred to the fact of seizure of C.C.T.V. cameras by drawing Panchanana. The complainant had lodged the report on 20th November, 2015 about the alleged theft of the items which according to the non-applicant are seized from the shop of applicant no.1.

Considering the facts on the record and that the non-applicant has not been able to show that the custody of applicants is required for further investigation, the interim order granted by this Court on 13th

January, 2016 is required to be confirmed in the following terms.

- (I) In the event of arrest of applicants in Crime No.232/2015 registered by the non-applicant, they be released on bail on furnishing P.R. bond in the sum of Rs.10,000/- (Rs. Ten Thousand Only) each.
- (ii) The application is allowed in the above terms.

CRIMINAL APPLICATION (APPP) NO.1423/2015.

In view of disposal of main application, this application does not survive and is disposed of accordingly.

JUDGE

Tambaskar.