

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

5 CRIMINAL APPLICATION NO. 1104 OF 2017

KALPANA W/O NANA KOLI(BORSE) AND ORS  
VERSUS  
THE STATE OF MAHARASHTRA

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Shri. N.B. Patekar, Advocate, holding for Shri. P.R.  
Katneshwarkar, Advocate, for applicants.

Shri. S.D. Ghayal, Additional Public Prosecutor, for  
respondent.

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**Coram: T.V. NALAWADE, J.**

**Date: 30 March 2017**

**ORDER:**

1) The application is filed for the relief of anticipatory bail. Both the sides are heard.

2) The crime is registered on the basis of report given by one Pralhad Dabhade. The alleged incident took place on 17-1-2017 after 12.30 p.m. in village Shingave near one bridge. It is the contention of the complainant that about 5 years prior to the date of the incident, present applicants Nana and his wife Kalpana had given

10 acres of land by way of mortgage for consideration of Rs. 8 lakh to him and then he has made construction of one shed. It is his contention that when he realised that Nana had sold the property to third party, he went to the field with tractor with his son Anand and nephew Ankush and he removed the construction of shed, loaded the material in the tractor and trolley and he was returning home with this material. It is contended that near the bridge his tractor and trolley was intercepted by the accused persons by using their motor-cycle and then they picked up quarrel with him and they started assaulting him. Allegations are made that applicant-Nana took away gold chain of two *tolas* worth Rs.50,000/- from the complainant and applicant-Ganesh took away cash amount of Rs.10,000/- from the pocket of Anil, son of the complainant. Allegations are made against lady applicant, Kalpana that she assaulted them with fists and kicks.

3) Police papers and submissions show that there is no record whatsoever with the complainant Pralhad Dabhade to show that the land was given by way of mortgage to him. The record shows that in respect of

same incident report was given by present applicant- Kalpana, accused and Crime No.18/2017 was registered in Shirpur Police Station for offences punishable under sections 379, 34 of the Indian Penal Code. The submissions made show that allegations were made against the complainant by present applicants that the complainant side had illegally removed the construction of their shed and they were taking away the material of shed and thereby they committed offence under section 379 of the Indian Penal Code. The submissions made show that the accused were arrested but on the date of the arrest they were granted bail as the articles were shown to be recovered.

4) In view of nature of dispute and the aforesaid circumstances this Court holds that anticipatory bail can be granted in favour of applicant Nos.1 and 2 but it cannot be granted in favour of applicant No.3 as there are allegations that he committed theft of gold chain and that chain needs to be recovered. As cash amount is shown to be taken away by Ganesh some conditions can be imposed on him.

5) The application of applicant Nos.1 and 2 is allowed. The interim protection granted in favour of applicant Nos.1 and 2 is hereby confirmed. The applicant Nos.1 and 2 are to attend the concerned police station on every Saturday and Sunday between 9.00 a.m. and 12.00 noon for next 15 days and they are to cooperate police during investigation.

6) The application of applicant No.3, Nana Koli is hereby rejected. Interim protection granted in favour of applicant No.3, Nana Koli is hereby vacated.

Sd/-  
**(T.V. NALAWADE, J.)**

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