

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 CRIMINAL APPLICATION NO. 2506 OF 2017

NAMDEO S/O KISAN @ KISANRAO GARAD
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Narwade Narayan B.
APP for Respondents: S.S. Raut

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CORAM : K.K. SONAWANE, J.
DATE : 24-05-2017.
(Vacation Court)

P.C. :

This is an application moved by the applicants to admit them on anticipatory bail in connection with Crime no. I-175/2017 registered under Section 193, 197, 199, 205, 419, 466 of Indian Penal Code at Shevgaon Police Station, District Ahmednagar.

2. It is the case of prosecution that, there was a civil litigation bearing R.C.S. No. 427 of 2016 pending before the learned C.J.J.D. (Court No.3) Shevgaon. Both the applicants being advocates represented the plaintiff and defendants, respectively in the matter. It has been alleged that on 17.12.2016 one of the defendant no.5 Archana Rameshwar Mandhare remained absent, owing to ill health. But, both the applicants, in connivance with plaintiff and defendants of the civil proceedings allowed to introduce one woman namely Jaya Sharad Bhapkar as defendant no.5 instead of original defendant no.5 Smt. Archana Rameshwar Mandhare.

When this mischief came to the notice of concerned Court, thereafter, F.I.R. was directed to be lodged against the applicants and others who are parties to the proceedings of R.C.S. No. 427 of 2016.

3. According to learned counsel, the applicants have no concern at all with the alleged crime and they are falsely implicated in the case. The applicants are the practicing lawyers and they acted on the directions of the concerned parties. They had no any intention to commit such crime and, therefore, the learned counsel prayed to enlarge the applicants on anticipatory bail and in case the applicants are arrested in the matter it would tarnish the reputation of the applicants.

4. The learned A.P.P. opposed the contention put forth on behalf of the applicants and submitted that charges pitted against the applicants are serious in nature. The applicants with malafide intention allowed the women Jaya Sharad Bhapkar to attend the proceedings instead of defendant no.5, Archana Rameshwar Mandhare. There are charges of false personation and mischief committed in the Court proceeding. After procuring the specimens hand writing and signatures of the applicants, the report of the hand writing expert will be procured. There are documents showing hospitalization of defendant no.5 Archana Rameshwar Mandhare. In such circumstances, it would unjust and improper to allow the

applicants to release on anticipatory bail.

5. I have considered the submissions canvassed on behalf of both sides. I have also perused the investigation papers. It is not in dispute that both the applicants are practicing lawyers in Shevgaon Court, District Ahmednagar. They represented the plaintiff and defendant in R.C.S. no. 427 of 2016 pending before the C.J.J.D. Shevgaon, District Ahmednagar. It is the allegation that the original defendant no.5 namely Archana Rameshwar Mandhare was not keeping good health during the relevant period and she remained absent in the proceedings. But, the applicants and the concerned plaintiff as well as defendants in the proceedings, ventured to point out that the defendant no.5 was present in the Court for further process. In the F.I.R. it has been categorically mentioned that, the women by name Jaya Sharad Bhapkar attended the Court proceedings, being defendant no.5 instead of original defendant Archana Rameshwar Mandhare. The Assistant Registrar of the Shevgaon Court filed the F.I.R. and set the criminal law in motion against the miscreants.

6. However, taking into consideration the nature of the offence and gravity of the allegations, I do not find any impediment to nod in favour of applicants. The matter pertains to the documents, which were furnished in the Court of law. There is no necessity for any custodial interrogation of the applicants. The rest

of the co-accused were released on bail. As per the report of the Investigation Officer, he has to record the statements of other witnesses and there is a possibility of tampering with the evidence. In view of attending circumstances on record, I find it cumbersome to accept the contentions put forth on behalf of the Investigation Officer. The valuable liberty of the applicants would not be curtailed for recording the statements of other witnesses into the crime. It is also worth to mention that, the applicants are the respectable persons and practicing lawyer in the Court at Shevgaon. In such circumstances, the application deserves to be allowed.

7. In the result, both the applicants be released on bail, on furnishing P.R. bond of Rs. 15,000/- (Rupees Fifteen Thousand) with one surety of like amount, each at the event of their arrest in Crime no. I-175/2017 registered at Shevgaon Police Station. It is stipulated that, the applicants shall co-operate with the Investigation Officer and secure their presence before the Investigation Officer whenever required for the sake of investigation. The applicants shall not, directly or indirectly, indulge in the activities of tampering with the evidence of prosecution and shall not leave the jurisdiction of the concerned trial Court without its prior permission. The application stands disposed of accordingly.

(K.K. SONAWANE)
JUDGE

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