

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.37 OF 2017

Ramdas Manglu Jadhav

... Applicant

Vs.

The State of Maharashtra

.. Respondent

Mr.Aniket Nikam I/b Aashish Satpute for the Applicant

Mr.Vinod Chate, APP, for Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: JANUARY 17, 2017

P.C. :

1. This application is filed by the applicant/accused for pre-arrest bail as the first application was rejected by the learned Additional Sessions Judge II, Nashik by order dated 4.8.2016. The applicant/accused is not granted any interim bail. It is shocking to come across a complaint, which was lodged on 10.8.2012 by Forest officer for the offences punishable under sections 143, 149, 183, 186 189, 353, 363, 379, 392, 401, 413, 505 and 506 of the Indian Penal Code and under sections 26(1), d, e, f, 41, 42 (2), 65(a) of the Indian Forest Act against the applicant/accused, no efforts are taken by the Investigating Officer to arrest the

applicant/accused. I am informed by the learned Prosecutor that the chargesheet is already filed in this case. The learned Magistrate has issued non-bailable warrant in June, 2016 as they are absconding.

2. It is the case of the prosecution that on 10.8.2012, one Vaibhav B. Hire, Forest Officer, came across theft of teakwood from the forest which were loaded in two pick-up vans. When the Forest Officer questioned the drivers and the persons, who were carrying the wood, around 25 to 30 persons, who were found in the vans, threatened the forest officials. At that time, one person arrived on a motor cycle and he instigated them to kill the forest persons and run away. They immediately threw the wood from the vans and they all ran away with empty vehicles. At that time, the persons in the gang threatened the forest personnel with sickle and axe and manhandled them and hence, the complaint was registered at C.R. No.C-28 of 2012 at Umbarthan Forest office, District Nashik.

3. The learned Counsel for the applicant/accused has submitted that the applicant/accused is innocent and has not committed any offence. He submitted that considering the nature

of the offence, custodial interrogation of the applicant/accused is not required and hence, he be released on pre-arrest bail.

4. Learned Prosecutor has opposed the application. He pointed out that non-bailable warrant is issued by the learned Magistrate against the applicant/accused as these persons are not remaining present before the Court.

5. On perusal of the complaint, it is found that there are specific allegations against the gang of these 25 to 30 persons and also against the applicant/accused. The offence under section 353 is made non bailable by the legislation in 2012, by way of amendment. The offence is committed against a public servant who was performing his or her duty. This Court has taken a serious view in respect of such offences and hence, not inclined to grant pre-arrest bail to the applicant/accused.

6. It appears that the Investigating Officer has not bothered to either arrest the applicant/accused or make a statement before this Court or the learned Magistrate that he does not want to arrest the applicant/accused. Therefore, by order dated 10.1.2017, the Investigating Officer was directed to file an affidavit to that effect as

to whether he really wants to arrest the accused or not. However, today, neither such affidavit is filed nor is the Investigating Officer present in the Court to make any statement.

7. In the circumstances, the Anticipatory Bail Application is rejected.

8. A copy of this order be forwarded to the Commissioner of Police, Nashik, for information.

(MRIDULA BHATKAR, J.)