

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.131 OF 2017

Shyamlal Bhagirath Samriya

Applicant

versus

State of Maharashtra

Respondent

Mr.Ravi Dwivedi for Applicant.

Mr.R.M.Pethe, APP, for State.

Mr.Prashant Mohan Gorawade, PSI, Nirmalnagar Police Station,
present.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 27th June 2017

PC :

1. The Applicant is apprehending arrest in connection with CR No.339 of 2016 registered with Nirmalnagar Police Station, Mumbai. The offences were registered under Sections 448 and 452 of Indian Penal Code.

2. The prosecution case is that the informant Manish Gavali claimed that he was residing in Room no.19 along with original tenant Daji Gavali and his wife Satyavati Daji Gawali. Daji Gawali expired in August-2004. Thereafter he was residing in the premises with Satyavati Gawali. In May-2015, Satyavati Gawali went to her native place. Thereafter the informant was residing in the premises. The accused was giving threats to the informant to vacate the premises. On 14th August 2016, he went to his relative and when he returned on 19th August 2016, he found that his lock was broken and there was another lock. The Applicant issued threats of dire consequences to the complainant. Hence, the FIR was lodged.

3. Learned advocate for Applicant submitted that the dispute relates to property between the tenant and landlord. The dispute is of civil nature. He submitted that he is the owner of the premises. The father of the Applicant used to collect the rent. He further submitted that an eviction suit is filed against other persons residing in the adjacent premises in Small Causes Court. He submitted that the complainant has filed false complaint of criminal trespass. The Applicant being the owner, has a right to enter the property. Therefore, he has not committed any offence as alleged.

4. Learned APP opposed the application. He submitted that the Applicant has evicted the tenant who was occupying the premises. It is further submitted that the occupant is not the owner of premises. He further submitted that the investigating officer has recorded the statements of persons residing in the adjacent rooms, which are supporting the version of complainant.

5. The Applicant was granted interim protection vide order dated 2nd May 2017. The Applicant has also complied with the directions issued in order dated 2nd May 2017. Taking into consideration the nature of dispute and the fact that the Applicant claims to be the owner of the premises, the Applicant is entitled for the relief under Section 438 of the Code of Criminal Procedure, 1973. The Applicant has co-operated in the investigation by attending police station. The matter relates to documents. The Applicant has filed a suit for eviction against other persons who have given their statements to the police impleading the Applicant. The Applicant was granted interim protection and during pendency of this application he was arrested and was released on bail.

6. In view of the above, I pass following order :

- (i) Anticipatory Bail Application No.131 of 2017 is allowed;
- (ii) The interim order dated 2nd May 2017 is hereby confirmed;
- (iii) The Applicant is directed to report Nirmalnagar Police Station, Mumbai as and when called for;
- (iv) The application stands disposed of.

(PRAKASH D. NAIK, J.)

MST