

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 202 OF 2017

Sunil Shankar Gupta

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Rajan S. Pawar Advocate for the Applicant.

Mr. Arfan Sait APP for the State.

Mr. D R. Bhoi, PSI, Central Police Station, Ulhasnagar.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 22nd MARCH, 2017.

PC :

1) Heard. This is an application under section 438 of the Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 681 of 2015 registered at Central Police Station, Ulhasnagar for offence punishable under sections 353, 332, 354, 384, 504, 506 r/w 34 of the Indian Penal Code.

2) Applicant happens to be servant and was working as security guard in Ulhasnagar Municipal Corporation. On 29/12/2015, Mr. Yuvraj Bhadane who

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was working as Additional Commissioner, General Administration Department and Law had lodged a report at the police station alleging therein that he had noticed that Mr. Sunil Gupta was not attending his duties and had not filed any application seeking leave. Upon inquiry made by the complainant, Sunil Gupta had informed that he has filed an application seeking transfer from the post of security guard to peon. Mr. Sunil Gupta was informed that the office has declined to pass a favourable order on his application seeking transfer. Since he is appointed on the post of security guard, he cannot be transferred to peon. Priya Gupta had visited the chamber of the complainant and had inquired about the application filed by Sunil Gupta. The complainant had informed her that the post cannot be changed as he is appointed as security guard. Thereafter, one Manoj Lasi @ Sayani had approached the complainant and had admitted to extort money from the complainant. Priya Gupta and Naresh Gaikwad had visited the chamber of the complainant and had given a letter of recommendation given by leader of the opposition Narendra Kumari Thakur who belongs to Nationalist Congress Party. There was a request by the political leader that Sunil Gupta be transferred and given the post of peon.

3) On 29/12/2015, at about 5.00 p.m., Sunil Gupta, Priya Gupta and Naresh Gaikwad had visited the chamber of the complainant and had again inquired about his request application. The officer had informed that it is under consideration. They presumed that officer is giving evasive answers. Priya Gupta had slapped the complainant in the chamber and had caught hold of him by the collar. She had pulled the files from his hand and had thrown away the files. Complainant was rescued by employees.

4) There is CCTV footage which would show that the incident has rather occurred in the manner in which it is stated in the F.I.R. It is pertinent to note that on 29/12/2015, at about 7.30 p.m., Priya Gupta lodged a report at the police station alleging therein that complainant who happens to be Additional Commissioner had attempted to outrage her modesty and on the basis of her report, crime no. 680 of 2015 was registered at Central Police Station under section 354 of Indian Penal Code against the complainant.

5) It is pertinent to note that Sunil Gupta was not suspended. Despite the

fact that report was lodged on 29/12/2015, Sunil Gupta has continued to work as watchman in the same local body. To substantiate his contention, the learned counsel for the applicant has shown payslips of Sunil Gupta of January 2016 and November 2016 and December 2016. The learned counsel has fairly placed on record the attendance sheet also which shows that applicant continues to attend his duties regularly.

6) It is apparent on the face of the record that authorities including Additional Commissioner had not taken any coercive steps against the applicant. It is clear that no administrative discipline is maintained. It simply appears that the act of the applicant, abusing and assaulting an officer of the rank of Additional Commissioner was waived. Priya Gupta who is sister-in-law of the present applicant happens to be an active worker of Nationalist Congress Party. In fact, she had no business to inquire with the complainant about the transfer application of Sunil Gupta and thereafter lodge a report alleging offence under section 354 of the Indian Penal Code. It is sorry State of affairs.

7) Learned counsel for the applicant submits that since applicant continues to work as public servant even today, custodial interrogation of the applicant would not be imperative. The said submission cannot be considered by this Court since despite being public servant, applicant had the audacity of slapping the senior most officer in his cabin while he was discharging his official duties and thereafter at his behest, Priya Gupta has lodged a report alleging offence under section 354 of the Indian Penal Code. The conduct of the applicant is deprecated and one fails to understand as to why no departmental action was taken. Offence under section 332 and 353 of the Indian Penal Code was already spelt out.

8) The learned counsel for the applicant submits that as on today, custodial interrogation is not warranted as the applicant continues to attend his duties.

9) This Court is of the opinion that although no coercive action was taken, the Court cannot be oblivious of the fact that section 332 and 353 are non-bailable and non-compoundable. There has to be some action to dissuade the offender from committing further crimes and embolden the offender by

showing such leniency.

10) Upon considering the material on record, this Court is of the opinion that no case for pre-arrest bail is made out.

11) Application stands rejected.

(SMT. SADHANA S. JADHAV, J.)