

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 451 OF 2017

1.Manik Chandrakant Chavan
2. Tukaram Chandrakant Chavan ...Applicants

Versus

The State of Maharashtra ...Respondent

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Mr.Ritesh M.Thobde for the Applicants.
Mrs.Rutuja Ambekar, APP for the State-Respondent.

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CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: MARCH 20, 2017

P.C. :

1. This application is filed by the applicants-accused for pre-arrest bail as the applicants-accused apprehend arrest in R.C.CNo.229 of 2015 for the offences punishable under sections 120B, 350, 449, 329, 391, 323, 506B and 34 of the Indian Penal Code. The complaint was filed by one Babu Ram Rathod.

2. Today is the second date. On 15th March 2017, the Investigating Officer was directed to remain present on the next date. However, the Investigating Officer is absent.

3. As per the case of the prosecution, the applicants-accused are brothers of Nirmala, who is wife of the complainant Babu Ram

Rathod. The applicants-accused alongwith their father and other persons on 9th October 2014 went to the house of the complainant. They assaulted the complainant and his parents. They ransacked his house and took away Rs. 3,50,000/- and his wife. Thereafter, again on 16th October 2017, the complainant's wife Nirmala who is also co-accused in this case alongwith her father arrived in the house. The complainant's wife took away gold ornaments and threatened the complainant. The applicant-accused Tukaram Chavan assaulted the complainant with knife on his hand and pushed him. They again ran away. Therefore, the complainant went to the Police Station at Akkalkot and gave information. The complainant was sent to Civil Hospital for the treatment. However, the police did not take cognizance, so he has filed a private complaint before the Judicial Magistrate First Class, Akkalkot. The learned Magistrate ordered enquiry under section 156 (3) of Cr.PC. Pursuant to the order of the learned Magistrate, the offence was registered at R.C.C. No. 229 of 2015 with Akkalkot Police Station under sections 120-B, 352, 327, 449, 392, 323,506 read with 34 of the Indian Penal Code.

4. The learned counsel for the applicants-accused has submitted that the father of applicants-accused, namely Chandrakant Chavan, who is co-accused no.2, has been released on bail by the learned

Sessions Judge Solapur. He further submitted that as per the prosecution the incident has taken place on 9th October 2014 and 16th October 2014. There is delay of more than 20 days in lodging the F.I.R and also approaching the learned Magistrate Court. He further submitted that it is a family dispute. The wife of the complainant left him and staying with her father. No such incident has taken place and therefore, the complainant has given a false complaint.

5. The learned APP opposed this application. She relied on the complaint and also the statement of the complainant's son Vaibhav. She submits that on the same date i.e. on 9th October 2014, the applicants-accused alongwith the co-accused have conspired of assaulting and robbing of the complainant. They all assaulted the complainant and took away cash of Rs. 3,50,000/- from his house. She submits that no pre-arrest bail be granted to the applicants-accused. She further submits that the offence is also registered under sections 329 and 391 of the Indian Penal Code.

6. Perused the F.I.R and the statements. It appears that the incident has taken place out of matrimonial dispute. As per the case of the prosecution, the incident has taken place on 9th and 16th October 2014. However, the complainant has lodged the complaint

against the applicants-accused on 5th November 2015. There is a considerable delay in lodging the F.I.R. The police has also not taken any action against the applicants-accused. Investigating Officer is not present today. Considering all these facts, I grant pre-arrest bail to the applicants-accused on the following terms:

ORDER

- a) In the event of arrest, the applicants-accused shall be released on bail upon furnishing PR. Bond in a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one or two solvent sureties in the like amount;
- b) The applicants-accused shall cooperate with the Investigating Officer and attend the concerned police station on every Friday and Sunday between 11.00 a.m and 2.00 p.m. till the filing of the chargesheet.
- c) The applicants-accused shall not harass or pressurise the complainant.
- d) The applicants-accused shall not tamper with the evidence and shall not indulge into any criminal activity;
- e) The applicants-accused shall not abscond or leave India without prior permission of the Court and furnish their

permanent addresses to the Investigating Officer alongwith documentary proof of their addresses.

f) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

7. Anticipatory Bail Application is disposed of in the above terms.

(MRIDULA BHATKAR, J.)