

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2037 OF 2017

Dilip Sadanand Pimple & Ors. ... **Applicants**

V/s.

The State of Maharashtra ... **Respondent**

....

Mr.Satyam R. Dubey, Advocate for the Applicants.

Ms.Anamika Malhotra, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 21th NOVEMBER 2017.

P.C. :

1 The applicants/accused in Crime No.I-617 of 2017 registered with Virar Police Station, District Palghar for offences punishable under Sections 143, 147, 149, 353, 500, 504, 506 of the Indian Penal Code and under Sections 37(1)(3) and 135 of the Maharashtra Police Act, by this application, are seeking pre-arrest bail.

2 Heard the learned Advocate appearing for the applicant/accused. He argued that in respect of the same incident covering the same time, Crime No.763 of 2017 came to be registered with the same Police Station at the instance of Police Constable Jayesh Jaywant Davne and, therefore, the second FIR in

respect of the same incident cannot be registered. My attention is drawn to the interim Order dated 10th November 2017 passed by the learned Division Bench of this Court in Criminal Writ Petition No.4612 of 2017.

3 The learned Additional Public Prosecutor opposed the application by contending that the crime in question is serious and custodial interrogation of the present applicant is warranted.

4 I have carefully considered the rival submissions and also perused the entire case diary of the Crime No.773 of 2017 registered with Police Station, Virar.

5 According to the prosecution case, pursuant to the Judgment of the Honourable Apex Court to remove unauthorized temples and places of worship coming on the road in the city limits, a team of the Virar Municipal Corporation was attempting to remove unauthorized temple of Saibaba at Virar. At that time, a mob of 75 to 100 people gathered on the spot and, therefore, the unauthorized structure was not removed. The incident in question in this FIR took place at the office of Municipal Corporation. According to the prosecution case, applicants/accused along with others came to the office of the Municipal Corporation with a demand of withdrawing a notice for removal of unauthorized structure of Saibaba temple. At that time, the Municipal

Commissioner was not present and, therefore, they were attended by Mr.Rajendra Lad - Executive Engineer, Ajij Shaikh – Deputy Commissioner and the First Informant. According to the First Informant and Ajij Shaikh, Deputy Commissioner of Municipal Corporation, the present applicants had raised slogans for withdrawal of notice of removal of unauthorized construction of Saibaba temple and threatened the officer that they will sever the limbs of persons attempting to demolish the temple. It is alleged that applicant Kailash Patil uttered obscene language while abusing the Municipal Commissioner.

6 Considering the nature of averments and the fact that except slogans no other over act was attributed to any of the applicants/accused in the crime in question, I am of the considered opinion that custodial interrogation of the present applicants in the crime in question is not warranted. Hence, the Order :

- (i) The application is allowed.
- (ii) In the event of their arrest, the applicants/accused in Crime No.I-617 of 2017 registered with Virar Police Station, District Palghar for offences punishable under Sections 143, 147, 149, 353, 500, 504, 506 of the Indian Penal Code and under Sections 37(1)(3) and 135 of the

Maharashtra Police Act at the instance of Sadanand Survey, Joint Commissioner, Municipal Corporation, Virar be released on bail on their executing P.R.Bond in the sum of Rs.15,000/- each and on furnishing surety in the like amount by each of them.

- (iii) As a condition of this Order, the applicants should not tamper with the prosecution evidence.
- (iv) The applicants/accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or to the Police Officer.
- (v) As a condition of this Order, the Applicants/accused should attend the concerned Police Station as and when called by the Investigator for the purpose of investigation.

(A.M.BADAR J.)