

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2038 OF 17

1. Anil D.Pandey ...Applicants
2. Jaiprakash R.Singh
Versus
The State of Maharashtra ...Respondent

Mr. A.P. Mundargi, Sr. Counsel a/w Mr. Sandesh Patil, Anand Singh i/b Chintan Shah for applicant.

Ms. Anamika Malhotra, APP for the State.

Rekha Ramrao Patil PSI, Tulinj Police Station.

CORAM: A.M. BADAR, J.

DATED: 22nd NOVEMBER, 2017

PC:-

1. The applicants/accused in Crime No. I-679 of 17 registered with Tulinj Police Station for the offences punishable under Sections 354, 323, 504, 506, 427 r/w 34 of the Indian Penal Code, by this application are seeking pre-arrest bail registered at the instance of Mrs. Leena Manoj Duhan.

2. Heard finally by consent of the parties. The learned Senior advocate appearing for the applicants/accused argued

that the minor tiff between members of the society over the issue of parking in the housing society has resulted in registration of the crime in question. There are no allegations against the applicant No.1 so far as the offence punishable under Section 354 of the Indian Penal Code is concerned. The FIR itself shows that there was quarrel between the parties and the applicants have also lodged the report in respect of the incident which is treated as report of non cognizable case. The FIR lodged by the alleged victim does not reflect in sexual intent on the part of the applicant No.2.

3. The learned APP opposed the application by submitting that the version of the first informant is corroborated by three eye witnesses to the incident and being an office bearer of the housing society, the applicants have deleted the C.C.TV footage in respect of the incident in question.

4. I have carefully considered the rival submissions and also perused the case diary. Both applicants as well as the

first informant are residents of new Lotus Tower co-operative housing society at Nalasopara. The FIR shows that applicant No.1 Anil as well as other members of the housing society were quarrelling with each other over the issue of parking in the society. During the course of the quarrel, husband of the first informant was slapped by applicant No.2 J.P.Singh, then the first informant came to the spot of the incident for questioning the applicant No.2 J.P.Singh, as to why he has slapped her husband. Thereupon, according to the first informant, applicant No.2 J.P. Singh slapped her and pulled her hair and pushed her by striking his hand on her chest. Her mangalsutra was damaged in the incident in question. The incident in question also resulted in registration of report of the non cognizable case at the instance of applicant No.1 Anil Pandey. He had reported to the police that first informant Leena and her husband Manoj had assaulted him by means of fist and blows and when applicant No.2 J.P.Singh tried to intervene, he was also assaulted.

5. Papers of the investigation shows that initially there was a quarrel between members of the society over the issue of parking in the society. Subsequently, the incident as alleged took place. Prima facie, it does not appear that the alleged act was in furtherance of the common intention. It took place during the course of the quarrel between the applicants and Manoj, who happens to be husband of the first informant. Record of investigation shows that statements of several witnesses are already recorded. Considering the nature of the offence and the manner in which it allegedly took place, I am of the opinion that custodial interrogation of both applicants would not serve any purpose nor it is necessary, instead both the applicants can be directed to join investigation.

6. Therefore, the following order.

ORDER.

i) The application is allowed.

ii) In the event of their arrest in crime No.I-679 of 17 registered with Tulinj Police Station, for the offences punishable under Sections 354, 323, 504, 506, 427 r/w 34 of the Indian Penal Code, the applicants/accused be released on bail on executing their P.R bond of Rs. 15,000/- each and on furnishing sureties in the like amount.

iii) As a condition of this order, the applicants should attend the concerned police station on every Saturday and Sunday in between 11.00 a.m. to 1.00 p.m. till filing of the charge-sheet and they should co-operate with the Investigating Officer.

iv) In addition to this, they should also attend the concerned police station as and when called by the investigating officer

v) The applicants/accused should 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.

vi) They should not tamper with the prosecution evidence.

vii) The applicants/accused should not contact either the first informant or her family members in any manner and they should not indulge in commission of any offence in future. Breach of this condition will entail the prosecution to apply for cancellation of above anticipatory bail granted to the applicants.

viii) The application is disposed of accordingly.

(A.M. BADAR, J)