

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2168 OF 2017***

Ashok Waman Gaikwad
Versus
The State of Maharashtra

...Applicant

...Respondent

Mr. Aniket Nikam a/w Mr. Aashish Satpute a/w Mr. Ramanik Pawar i/b. Mr. Vaibhav R. Gaikwad, for the applicant.
Mrs. P.P. Shinde, APP, for the State.

***CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 20th December, 2017.***

P.C. :

1. Heard. This is an application under Section 438 of Cr.P.C.
2. The applicant herein is apprehending his arrest in Crime No. 415 of 2008 registered at Satara Police Station for the offences punishable under Sections 385, 395, 504, 506 of the Indian Penal Code. The investigation is completed and charge sheet is filed against the applicant in June 2008. The learned trial Court has issued non-bailable warrant against the present complainant as well as the proclamation has been issued under Section 82 of the Code of Criminal Procedure, 1973.

2. It is the case of the prosecution that on 1.7.2008 Amit Pawar lodged a report at the police station that he is running a Call Centre. 300 boys are employed in the said call center. On 30.6.2008, his employee Geeta Deverukhkar had informed the complainant that two persons namely Amol Kamble and Rahul Pardeshi had broken the door of their office by pelting stones. On 1.7.2008 at about 5.50 p.m. when the complainant was in his office, the applicant along with Amol Kamble and Rahul Pardeshi and 15 -20 other people had been to the office and had raised slogans in the name of Dr. Babasaheb Ambedkar. They had assaulted the complainant with fist and kick blows and had asked him to close down the Call Centre since he is not giving the salary of the employees and he had asked the complainant to pay the salary of Amol Kamble and Rahul Pardeshi immediately. He had threatened him of dire consequences. In the said melee, the complainant had lost Rs.40,375/-. That the applicant had taken away the important file from the said office.

3. The learned counsel for the applicant has submitted that the applicant had no knowledge about issuance of non-bailable warrant as it was never served upon him. That he is very much in the same city and has even contested elections. It is submitted that he has also led agitations in

the said area since 2008 till 2017 and, therefore, it cannot be said that he is absconding. There is nothing on record to indicate that the police had made any attempts to arrest him or even execute the non-bailable warrant. In the facts of the case, custodial interrogation of the applicant would not be necessary at this stage.

4. The learned APP, upon instructions, submits that the case is ready for trial. In view of this, the applicant deserves to be granted pre-arrest bail on an undertaking that he will attend each and every date at the time of trial including framing of charge. Upon failure to attend any two consecutive dates, the pre-arrest bail granted in favour of the applicant is deemed to be cancelled.

5. The prosecution is at liberty to file an application to seek cancellation of bail.

6. The above observations are prima facie in nature and shall not be taken into consideration at the time of deciding the application for quashing, FIR or at the time of trial.

ORDER

(i) The application is allowed.

(ii) In the event of arrest, the applicant be enlarged on bail on

furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

(iii) In view of the fact that the applicant is granted pre-arrest bail, the learned Court shall consider the application seeking recall of the non-bailable warrant as well as the order passed under Section 82 of Cr.P.C.

Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)