

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1200 OF 2018

1. Kundalik Tukaram More
2. Sangita Kundalik More
3. Dinkar Tukaram More
4. Amol Laxman Nikam
5. Prakash Hanmant Shinde
6. Dattatray Shankar Jadhav
7. Abhijeet Lalaso Dandwate
8. Ganesh Duryodhan Kamble
9. Sangram Govind More
10. Ganesh Vilasrao Yedage
11. Deepak Suresh Harale
12. Vikas Keshav Kikale

....Applicants

V/s.

The State of Maharashtra

....Respondent

**WITH
CRIMINAL APPLICATION NO. 912 OF 2018
IN
ANTICIPATORY BAIL APPLICATION NO. 1200 OF 2018**

Rohit Satish Sareen

.....Intervenor

In the matter between :-

Kundalik Tukaram More & Ors.

....Applicants

V/s.

The State of Maharashtra

....Respondent

Mr. Ganesh Gole for the applicants in ABA 1200/2018.

Mrs. J.S. Lohokare, APP for the State.

Mr. Rohan Mahadik I/b. The Juris Partners for the intervenor.

Mr. Shirtode, IO-PSI, Kadegaon Police Station, Sangli.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 09th OCTOBER, 2018.**

P.C.:

. This is an application for anticipatory bail under section 438 of Criminal Procedure Code, filed by the aforesaid applicants, apprehending their arrest in C.R.No.81/2018 registered with Kadegaon Police Station, District Sangli for offences punishable under sections 143, 147, 148, 323, 504, 506, 341, 352, 452, 380, 427, 447 r/w. 149 of the Indian Penal Code.

2. Heard Mr. Ganesh Gole, learned counsel for the applicants and Mrs. J.S. Lohokare, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The aforesaid crime was registered pursuant to the first information report dated 13/07/2018 lodged by one Rohit Satish Sarin who is the Director of Camson Agri Venture Pvt. Ltd. The first informant has claimed that the applicant nos.1 and 2 had proposed to sell their firm which is under the name of "Srushti Agro Exports and Deccan Agro Exports". The first informant claims that he purchased the same and agreed to repay the loan and accordingly, the first informant and the applicant nos.1 and 2 executed an agreement dated

14/05/2014. It is alleged that pursuant to the said agreement, the first informant repaid an amount of Rs.10 crores and obtained physical possession of the firms. The first informant claims that the applicant nos.1 and 2 had avoided to transfer the plot situated at Kadegaon and took an additional amount of Rs.11,292,330/- in addition to the amount stated in the agreement. The grievance of the first informant is that on 22/04/2018, the applicants formed an unlawful assembly. They were armed with deadly weapons and that in furtherance of the common object, they took forcible possession of the property. It is alleged that the applicants committed theft of agricultural product and other articles from the said premises.

4. The allegation against the applicant are general in nature. Though, Section 149 of the Indian Penal Code recognises the principle of vicarious liability, the question whether the applicants shared the common object and whether they had acted in furtherance of common object, is a matter which will be have to be decided on merits of the matter.

5. The records also reveal that the applicant nos.1 and 2 and the first informant had entered into an agreement dated 14/05/2014. The

first informant has already filed Special Civil Suit No.197/2017 for specific performance of the said agreement. The records reveals that the applicant nos.1 and 2 have also filed a suit being Regular Civil Suit No.72/2018 against the first informant seeking to restrain them from interfering with the possession in respect of the suit property. The grievance raised in the first information report has overtones of a civil dispute. Hence, in my considered view, this would not be a case which would justify custodial interrogation. Even otherwise, the applicants are the permanent resident of the State and have roots in the society. There is no possibility of the applicants absconding and/or thwarting the course of justice. The applicants have no criminal antecedents. Furthermore, they were granted interim bail by order dated 20/06/2018 and they were directed to report to the Police Station as and when called. Mr. Ganesh Gole, learned counsel for the applicants submits that the applicants have not been called for interrogation. This fact prima facie reveals that presence of the applicants is not required for interrogation, much less for custodial interrogation. Considering the above facts and circumstances, the application is allowed on following terms and conditions :-

(a) In the event of arrest of the applicants in C.R.No.81/2018

registered with Kadegaon Police Station, District Sangli, they shall be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) each with one or two solvent sureties in the like amount, to the satisfaction of the Investigation Officer.

(b) The applicants shall remain present before the Investigation Officer as and when required by the Investigation Officer for the purpose of interrogation/investigation.

(c) The applicants shall furnish their permanent and temporary address, if any, and their contact details to the Investigation Officer.

(d) The applicants shall not change their residential address without prior intimation to the Investigation Officer.

(e) The applicants shall not interfere with the first informant and the other witnesses in any manner and shall not tamper with the evidence.

6. Intervention Application does not survive and the same is disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)