

918- ABA 1464 of 2018
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION No. 1464 OF 2018

Rahul Kisan Kandge
Vs.
The State of Maharashtra

...Applicant
...Respondent

Mr. A.H.H. Ponda i/b. Mr. Shailesh Kharat for Applicant
Mr. Prashant Jadhav -APP
Mr. Satish A. Mapore, P.N. Chakan Police Station, Pune (Gramin)

CORAM : SMT. SADHANA S. JADHAV, J.
DATE: JULY 24, 2018

P.C.

1. This is an application under section 438 of the Criminal Procedure Code.
2. The Applicant herein is apprehending his arrest in Crime No. 580 of 2018 registered at Chakan Police Station, Pune (Gramin) for offences punishable under section 354(B), 452, 449, 450 of the Indian Penal Code.
3. It is the case of the prosecution that on 27.6.2018, Mrs. Dipali Gargote

lodged a report alleging therein that her husband happens to be a MSEB Contractor. That he had borrowed Rs.7,00,000/- from the Applicant at the rate of 10% p.a. interest. It was an oral agreement. Thereafter, her husband paying interest regularly for two years but subsequently had discontinued to pay. It is alleged that the Applicant had forcefully executed a registered deed by which the house of the complainant worth Rs.27,00,000/- was transferred in his wife's name. That he used to call the complainant and her husband frequently and asked her to vacate the house. It is alleged that on 26th June, 2018 at about 11.30 p.m., the Applicant had been to the house of the complainant. The complainant had informed him that her husband is not at the home and, thereafter, he dragged her into the bed room and attempted to molest her. She rescued herself by running outside of the house and upon hearing her hue and cry, her mother-in-law and brother-in-law rushed out of their house and thereafter, the Applicant had fled from the spot. Hence the report is lodged.

4. The Applicant has placed on record the WhatsApp messages, which are exchanged between the Applicant and the Complainant at 8.00 p.m. on 26th June, 2018. It also appears that the Applicant and the Complainant are the co-owners of a piece of land which they have purchased jointly from Darku Haribhau Gargote and Sunita Darku Gargote. They appear to be the relatives of

the Complainant.

5. The learned APP has also placed on record the call details which show that there were phone calls exchanged between the Complainant and the Applicant.

6. In view of the facts stated above, the Applicant deserves pre-arrest bail as it is specifically mentioned by the learned counsel for the Applicant, who has demonstrated that in fact the Complainant's husband owes huge amount to the Applicant and that he was pressing him for returning the same and, therefore, the Applicant has been falsely implicated in this matter.

7. Be that as it may. The APP submits that there is a material to show that the Applicant is indulging in money lending business without license. The same may be inquired by the Co-operative Department, through the Deputy District Registrar and grant of pre-arrest bail would in no way mean that there shall be no inquiry as far as the material in respect of the Money Lending Act is concerned.

8. The observations are restricted to application under section 438 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial. Hence, the following order.

Order

- (i) Application is allowed.
- (ii) In the event of arrest, the Applicant be enlarged on bail on furnishing P.R. Bond of Rs.1,00,000/- each and one or more sureties in the like amount.
- (ii) The Applicants shall report to the concerned police station on every alternate day from 29th July, 2018 till 3rd August, 2018 and co-operate with the investigating agency. The Investigating Officer shall record the statement of the Applicant.

Application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]