

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

CRIMINAL APPLICATION NO. 424 OF 2018

Nilam Ashok Rajpure

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

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Mr.Milind G. Sakpal for the Applicant.

Mrs. A.A.Takalkar, APP for the Respondent/State.

Mrs. Veena Thadhani, Mr. Vishal Thadhani, Ms.Priyanka Raul and
Ms. Chaitali Gosavi for Respondent Nos. 2 to 5.

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CORAM: PRAKASH D. NAIK, J.

DATED: AUGUST 23, 2018

P.C. :

1. This is an application for cancellation of anticipatory bail granted by the Court of Additional Sessions Judge-3, Thane by order dated 7th July, 2018. Respondent Nos. 2 to 5 were accused in CR No. I 426 of 2018 registered with Kashimira Police Station.

2. The case of the prosecution is that on 27th June, 2018 on account of rain there was water logging in the godown of

complainant at Vasai. Her husband and brother-in-law were out of station. 360 bags of paints were loaded in the truck from godown, and the same were being offloaded at the flat premises of Mira Road. The members of the society objected for the same. The society members were informed that the goods will be removed on next day as the complainant's husband and brother-in-law are not at home. Complainant's husband told her that the members of society are creating trouble and she should look into the matter. When she went out to the place where the goods were being offloaded, she noticed that Mr. Bhaskar Shetty was abusing and threatening labourers. The complainant took help of her friend Anju. She came with her husband. When they went to the flat to verify the goods, Bhaskar Shetty came to flat and kicked the door and abused complainant in vulgar language. His friend Paresh Parikh abused her friend. The wife and daughter of Paresh came there and also abused them. The Secretary of Society and others intervened hence the accused left the place. However, Bhaskar Shetty kept on abusing the complainant. On next day after her husband returned home, complaint was lodged under Sections 354, 452, 504, 506, 352 read with 34 of the Indian Penal Code.

3. The learned Sessions Judge while granting anticipatory bail has observed that the accused had registered non-cognizable offence prior to lodging of First Information Report (F.I.R.). There is no question of any recovery or discovery at the instance of the applicant. For the purpose of investigation, the accused can be directed to remain present before the concerned Police Station.

4. The learned counsel for the applicant submits that the accused were involved in serious crime and they ought not to have been granted anticipatory bail by the learned Sessions Judge.

5. It is submitted that the learned Sessions Judge while granting anticipatory bail has failed to consider that custodial interrogation of respondent Nos. 2 to 5 was required. There is danger to the life of the complainant and the other witnesses. The accused are repeatedly indulging in such activities. It is submitted that police had not conducted fair investigation. The respondents were not arrested although police visited their residence. The society had written letter to Kashimira Police Station criticizing behavior of accused. There were several witnesses and CCTV

footage is available relating to incident. The respondent Nos. 2 to 5 are not permanent residents of State and are likely to abscond.

6. The learned counsel for respondent Nos. 2 to 5 submits that false and frivolous complaint was lodged by the complainant. Prior to registration of FIR, NC was lodged at the instance of respondent No.2. It is submitted that that custodial interrogation of respondent Nos. 2 to 5 was not necessary and the learned Sessions Judge has passed impugned order on conditions.

7. Learned APP submits that there is no breach of the conditions imposed by the Sessions Court. The investigation is completed and the chargesheet will be filed shortly.

8. On perusal of the F.I.R. and the impugned order, I find that the complainant and respondent Nos. 2 to 5 was the residents of the housing society. They had objected storage of 360 bags of paint in the residential premises. Non-cognizable complaint was lodged by respondent No.2. The learned Sessions Judge while allowing application for anticipatory bail has observed that there is nothing to be recovered or discovered. The respondents are

residing at the premises referred to in the title of this application. Several stringent conditions are imposed by Sessions Court while allowing the application. They were directed to report police station. Considering the reasons assigned by the Sessions Judge and the fact that the application was allowed on stringent conditions of which there is no breach, no case for setting aside the order is made out.

9. Criminal Application is rejected and disposed off.

(PRAKASH D. NAIK, J.)