

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1601 OF 2017***

1. Nitin Suresh Malpani	)	
2. Manish Shivdas Malpani	)	
3. Sachin Sham Malpani	)	
4. Atul Jagdish Malpani	)	Applicants
Versus		
The State of Maharashtra & Anr.		Respondents

Mr. Aashish Satpute, for the applicants.

Mr. S.H.Yadav,APP, for the State.

Mr. Sudesh T. Sapkal, PN, Faraskhana Police Station, Pune City present.

CORAM : SMT. SADHANA S.JADHAV, J.

DATE : 31st January, 2018.

P.C. :

1. The applicants are apprehending their arrest in Crime No.139 of 2017 registered at Faraskhana Police Station, Pune, for the offences punishable under Sections 304, 436, 120B read with Section 34 of the Indian Penal Code.

2. Notice was issued to the respondent No.2 who is original complainant. The Investigating Officer has also informed to the complainant about the pendency of this application. On the last occasion,

the matter was adjourned in order to give an opportunity to the respondent No.2. However, none appears for respondent No.2.

3. It is the case of the prosecution that Surendra Bansal filed a complaint in the Court of Judicial Magistrate, First Class (Court No.2), Pune alleging therein that he runs a cutlery shop in S.No.1532 situate at Shukrawar Peth. The property belongs to Harihar Mandir Sansthan, Pune. Mr. Harnarayan P:annalal Malpani happens to be the panch/administrator of the said property. The applicants herein are the legal heirs of Harnarayan Malpani. It is also alleged that in the midnight of 3.5.2017, there was a fire in the shop of the complainant and there was a damage of Rs.40,00,000/-. The brother of the complainant i.e. Pravin Bansal had died in an attempt to extinguish the fire. The cause of fire was not known. However, subsequently, the complainant had learnt from one Vinayak Dave that the applicants herein, with the help of some unknown persons had set fire to his said shop in order to repossess the said premises.

4. The learned Magistrate by an order dated 14.6.2017, had issued directions under Section 156(3) of Cr.P.C. pursuant to which Crime No.139 of 2017 is registered. The report of the Pune Municipal Corporation shows that the cause of fire could not be ascertained. The

panchnama also indicates that the house-keeping material was stored in the said shop which could be the cause of accidental fire.

5. In the abovementioned facts, this Court is of the opinion that the applicants deserved to be granted pre-arrest bail.

However, it is made clear that the observations are restricted to an application under Section 438 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial or any civil proceedings.

ORDER

(i) The application is allowed.

(ii) In the event of arrest, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each with one or more solvent sureties in the like amount.

(iii) The applicants shall report to the concerned police station as and when called.

The application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)