

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2469 OF 2018

Kailas Narayan Sundarani & ors. ...Applicants
vs.
The State of Maharashtra ...Respondent.

Mr. Sheroo Kanuga with Mr. Ashish Sawant and Miss. Minal Chandnani
i/by Jaiwant Chandnani & Associates for the Applicants.
Mrs. J.S. Lohokare, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.
DATE : 4th December, 2018

P.C.

1. This is an application under Section 438 of the Code of Criminal Procedure for pre arrest bail in CR No.222/2018 registered with Gandhi Nagar Police Station, District Kolhapur under Sections 395 of the Indian Penal Code.
2. Heard the learned counsel appearing for the applicants and the learned APP. Perused the record of investigation.
3. The first information report is lodged by Mr. Shyamlal A. Bachrani. It is alleged that. the first informant is having dispute with his neighbour Mr. Suraj Chandwani as there were altercations between them prior to the date of incident in question. The alleged incident in question occurred on 13.9.2018 between 2.00 to 2.30 p.m. It is alleged that, on 13.9.2018

between 2.00 to 2.30 p.m. the applicants under the directions and instructions of Suraj Chandwani came at the shop of the informant and threatened him to pay Rs.10,000/- failing which they will cause problems to the informant. When the informant refused to pay the said amount, it is alleged that the applicants assaulted him with sticks, fist and kick blows. The son of the applicants got scared of the same and did not intervene in the said scuffle. It is further alleged that, the applicants thereafter taken Rs.9500/- from the counter/drawer of the shop of the informant. That, the applicant Nos. 1 and 2 also snatched a chain made up of a gold metal from the person of the informant. In the premise, the first information report is lodged on 11.10.2018.

4. A bear perusal of the first information report would indicate that, though such alleged serious incident took place on 13.9.2018 between 2.00 to 2.30 p.m., the informant without immediately lodging the crime with the police station went to pilgrimage on 14.9.2018 and returned on 5.10.2018 and thereafter registered the the present crime on 11.10.2018 for an alleged offence of robbery/dacoity committed on 13.9.2018. It prima facie appears that, the present crime is registered with due deliberation by the informant as he did not feel it necessary to lodge the said crime immediately on 13.9.2018.

5. The learned APP. submitted that the applicants are history sheeters

and there are 14 crimes registered against them of similar nature. It prima facie appears that due to enmity between the informant and his neighbour Mr. Suraj Chandwani, present crime has been registered by the informant belatedly. As noted earlier, it prima facie appears that the present crime is registered with due deliberation to implead the applicants and Suraj Chandwani in the present crime. It further prima facie appears that the present crime is registered with malafide intention.

In view of the above, the applicants are entitled to be protected by pre-arrest bail.

6. Hence, the following Order.

- a) In the event of arrest in CR No.222/2018 registered with Gandhi Nagar Police Station, District Kolhapur, the applicants shall be released on bail on their furnishing PR bond of Rs.25,000/- each with one or two separate solvent local sureties in the like amount.
- b) The applicants shall attend the Investigating officer from 11.12.2018 to 13.12.2018 between 10.00 a.m. and 12.00 noon and to join the process of investigation.
- c) The applicants shall not tamper with the evidence and/or influence the prosecution witnesses.
- d) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)