

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE SIDE
ANTICIPATORY BAIL APPLICATION NO.1118 OF 2018

Sreejit Rameshan

Applicant

Versus

State of Maharashtra & another

Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO.1185 OF 2018

Anil Raghunath Bansode

Applicant

Versus

State of Maharashtra & another

Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO.1940 OF 2018

Budhiwan Prahalad More

Applicant

Versus

State of Maharashtra & another

Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO.1941 OF 2018

Irfan Nijamuddin Shaikh

Applicant

Versus

State of Maharashtra & another

Respondents

Mr.Niranjan Mundargi, advocate i/by Mr.Pawan S. Patil, advocate for applicant in ABA 1118/2018.

Mr.Pawan S. Patil, advocate for applicants in ABA Nos.1940/18 and 1941/18.

Mr.Priyal Sarda, advocate i/by Mr.Sachin Zalte, advocate for applicant in ABA No.1185/18.

Ms.J.S.Lohokare, APP for Respondent-State in all these

Applications.

Mr.A.S.Khandeparkar, advocate along with Mr.Rajdeep Gade, Sankalpa Rajpurohit, advocates for Respondent No.2-original complainant.

CORAM : NITIN W. SAMBRE, J.

DATE : 08th March, 2019.

P.C. :

All these applicants are seeking pre-arrest bail in Crime No.134 of 2018 for the offence punishable under Sections 395, 417, 170, 120-B of the Indian Penal Code registered at Police Station Kudal, District Sindhudurg.

2 Applicant Sreejit claims to be a RTI activist, who is provided with police protection. Applicant Anil Bansode is informer of applicant Sreejit and applicant Budhiwan More is a Gunman/Guard provided to applicant Sreejit. Applicant Irfan is the driver of Sreejit.

3 It is the case of the prosecution that all these applicants along with other 5 accused, in all total 9 accused persons, hatched a criminal conspiracy as under:

Applicant Sreejit and applicant Anil were acting together as RTI activists. Accused no.7 Amol was working with complainant. Complainant was dealing in construction and trading in fruits like blackberry and cashew, etc. Co-accused Amol, Ex-employee of complainant, gave inputs to applicant Anil about the alleged illegal activity of complainant resulting into applicants forming a group of more than five accused persons and hatching a conspiracy to commit the offence in question.

4 It is claimed that taking undue advantage of the status as a social worker and RTI activists, applicants Sreejit and Anil along with co-accused carried out a raid at the premises of complainant with the help of Gunman Budhiwan and driver Irfan and removed cash of around Rs.5.5 lakhs along with other valuables resulting into registration of the crime in question.

5 The submission of the learned Counsel for applicants is, since applicant Sreejit is a RTI activist and being a whistle blower, is made a scapegoat in the crime in question. According to him, at the behest of applicant, crime being Cr.No.124/18 was registered against the complainant for an offence punishable under Sections 3 and 7 of the Essential Commodities Act. He would then urge that in view of the aforesaid social status of applicant Sreejit, police authorities have falsely implicated applicant Sreejit in the crime in question. The learned Counsel then would urge that the allegations against the applicants are far away from truth and their custodial interrogation is not warranted as the applicants have cooperated in the investigation during their interim protection.

6 Learned Counsel for applicant Anil submits that he was acting as an informer of applicant Sreejit and alleged inputs given by the applicant resulted into registration of crime against the complainant under the provisions of Essential Commodities Act.

7 Learned Counsel appearing for applicant Budhiwan More, an employee in the Police department, who was acting as a

Gunman/Guard of applicant Sreejit, submits that he was discharging his official duty being guard of applicant Sreejit, whereas, applicant Irfan submits that his role is only to the extent of driver of Sreejit.

8 It is also claimed that applicants are very much available for investigation and there are no antecedents against them.

9 *Per contra*, learned Assistant Public Prosecutor, based on the investigation carried out till date, submits that custodial interrogation of the applicants is necessary for recovery of cash involved in the crime, so also vehicles. According to her, accused persons along with other co-accused are absconding and not cooperating in the investigation. As such, rejection of applications is sought.

10 Considered rival submissions.

11 Upon perusal of the investigation carried out till date, what is reflected is, applicant Sreejit claimed to be an innocent person. According to him, he is a RTI activist having social status in the society. So far as said claim of applicant- Sreejit is concerned, in his application, he has come out with the pleadings that accused Anil acted as informer. As per Prosecution, all the accused persons appear to have carried out raid at the place of complainant pretending that they are officers of the Central Government. The FIR then discloses that the applicants have committed a cognizable offence and apart from complainant, there

are independent witnesses to the incident in question, including neighbour Ashok Laxman Sawant.

12 The fact remains that the applicants claim to have committed the offence on April 22, 2018 at 08.45 p.m. by visiting the place of complainant in three vehicles.

13 Once the contents of FIR having disclosed a cognizable offence, it can be noticed that the contents of the complaint, in any case, cannot be stretched to the extent of appreciating defence of applicants of a social worker, a RTI activist etc. All the applicants, in calculated manner, appear to have committed the offence and removed cash from the house of the complainant.

14 Accused Budhiwan More, a police constable armed with weapon, has misused his position by exceeding his duties while participating in the offence in question. The statements of the witnesses depict that the said co-accused has threatened the victims, collected their mobiles and acted in aid of main accused Sreejit and Anil. Accused Irfan appears to have accompanied his master Sreejet-co-accused and has also driven the vehicle.

15 The statement of the victim, detail narration of mode of commission of offence, serious allegation of impersonation as a team of C.B.I. officers, misuse of police security by accused persons can be *prima facie* inferred from the investigation papers. There is sufficient material on the record to infer *prima facie* involvement of the applicants in the offence in question and that being so, in my opinion, no case for pre-arrest bail is made out.

16 There is one more reason which warrants rejection of applications, as the applicants who have enjoyed interim protection, have not cooperated in the investigation, as is reflected from the investigation papers.

17 That being so, all these applications fail and stand rejected.

18 At the request of learned Counsel for applicants, interim protection, granted by this Court earlier, is continued for a period of four weeks from today.

NITIN W. SAMBRE
JUDGE

adb