

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.36 OF 2019

Sujit Posha Bhagat, Age 28 years,
R/o.Dhaka Khanda Gaon, Old Panvel.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Sagar J. Kamble I/by M.J.Oberoi for applicant.
Mr.S.R.Agarkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 8th January 2019

PC :

1. This is an application for anticipatory bail in connection with CR No.609 of 2018 registered with Panvel Railway Police Station for offences under Sections 392, 504, 506 and 34 of Indian Penal Code. Subsequently the offence u/s 395 of IPC was recorded.

2. The applicant had preferred application for anticipatory bail before the Sessions Court, which has been rejected by order dated 15th December 2018.

3. The case of prosecution is that the complainant was proceeding by train. When he was at Khandeshwar Railway Station on plat form no.2 and about to board the local train towards CSMT Station, four unknown persons standing on the platform at that time pulled him from the train and assaulted him. They also removed cash of Rs.30,000/- and gold chain weighing 30.20 grams and ray away from the place of incident. The FIR was registered with police station and investigation had commenced.

4. During the course of investigation, co-accused were arrested by police. The contention of the applicant is that he has been falsely implicated in this case. The applicant is a social worker and has participated in various social activities. He has been awarded certificate for maintaining law and order situation by Police Commissioner. The question of applicant indulging in the alleged activity does not arise. The prosecution is relying on the statement of co-accused, which is not admissible in evidence. There is variation in the remand application filed in connection with the arrested accused and the police report filed opposing application for anticipatory bail. It is further submitted that the Trial Court while entertaining the application for bail preferred by the co-accused, could not view the CCTV footage as it could not be opened. The applicant is willing to co-operate with the investigation and his custodial interrogation is not necessary.

5. Learned APP submitted that there is sufficient evidence showing involvement of the applicant in the crime. The CCTV camera which was installed at the railway station clearly shows presence of the applicant as one of the participant in the crime. The verbal conversation exchanged by the applicant is also recorded in the same camera. It is further submitted that CDR record also shows presence of the applicant at the scene of offence. Learned APP also pointed out the statement of witnesses who were the friends of applicant, which were recorded during the course of investigation, which also corroborates the case of prosecution showing the involvement of the applicant in the said crime. The co-accused during investigation have also shown complicity of the applicant in the crime.

6. In the light of evidence collected during the course of investigation viz statements of witnesses, CCTV footage and CDR record, prima facie shows the involvement of the applicant in the crime. The statements of co-accused may not be admissible in evidence during the course of trial, however, apart from the said statements, which leads the police to investigate the crime, there is other corroborative evidence to show the complicity of applicant in the crime. In the circumstances no case for grant of anticipatory bail is made out. Hence, Criminal Anticipatory Bail Application No.36 of 2019 is rejected.

(PRAKASH D. NAIK, J.)

MST