

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.234 OF 2020

Hanumant Limbaji Dukare	Applicant
versus	
The State of Maharashtra	Respondent

AND

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.235 OF 2020

Sangita Hanumant Dukare	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Satyavrat Joshi with Nitesh Mohite with Sunil S. Kamble for
applicant in both applications.
Mr.H.J.Dedhia, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 28th January 2020

PC :

1. The applicants in both these applications are apprehending arrest in CR No.836 of 2019 registered with Baramati City Police Station, Baramati, District Pune for offences under Sections 323, 392, 452, 504, 506 of Indian Penal Code and under Sections 39 and 45 of Maharashtra Money Lending (Regulation) Act.

2. The applicants are husband and wife. The FIR was registered on 27th December 2019. In short the case of complainant is that he is running a Mutton shop. He was acquainted with both the applicants.

In 2016 due to financial crisis the complainant borrowed Rs.10,000/- on interest @ 21% per month from the applicants. He again borrowed Rs.6 lakh on interest @ 25% per month from the applicants for reconstruction of building of old house. It is alleged that three cheques were obtained by the accused from the complainant. The accused used to intimidate the complainant. By using coercive methods the accused had recovered Rs.21 lakh with multiple interest on Rs.6 lakh loan. Due to harassment the complaint was filed with Assistant Registrar, Baramati. On 7th May 2018 the accused went to the house of complainant and assaulted him and forced him to execute an agreement of promissory note. Under threat the complainant executed the promissory note. The accused filed civil suit against complainant. On 23rd December 2019 the complainant was threatened. Externment proceedings were initiated against the applicants. Apprehending arrest the applicants have preferred applications for anticipatory bail before Sessions Court, which were rejected.

3. Learned advocate for applicants submitted that the complaint is false. The offence u/s 392 and 452 of IPC is not made out. The other offences are bailable. Custody of applicants is not warranted. The complainant had executed documents from time to time towards clearance of loan obtained by him. It is submitted that after executing the loan documents under coercion no complaint was lodged by the complainant. The complainant had admitted that he had obtained loan from the applicants. It is submitted that the complaint was lodged by the applicants prior in point of time against complainant. The applicants had also initiated civil proceedings by filing civil suit against complainant which is sub-judice. The co-

accused who are allegedly associated with the applicants and were involved in intimidation, had preferred application for anticipatory bail which has been allowed.

4. Learned APP submitted that the accused are indulging in coercive methods to recover the loan amount. Heavy interest is being charged by them and the victims are forced to execute undertakings/affidavits/agreements etc.. The applicants are habitual offenders. Two other cases are pending against them under the provisions of Money Lending Act. The externment proceedings were initiated against the applicants u/s 55 of Maharashtra Police Act.

5. I have gone through the FIR and other documents. Admittedly the complainant had obtained loan from the applicants. Writings were executed. The transactions were executed from 2016 till the date of complaint. The grievance of the complainant is that heavy interest is being charged by the applicants. It is also alleged that there was coercion to execute such writing, however, after executing the documents there is no complaint. Section 392 of IPC is invoked on the ground that they were forced to part with amount. It is debatable whether said provision is attracted in this case. Section 452 is being invoked on the ground that accused had trespassed into the property of complainant. It is undisputed that the applicants have filed civil suit which is pending in the Lower Court. Considering the factual aspects of the matter, the applicants can not be subjected to custodial interrogation and they can be directed to co-operate with the investigation.

6. Hence, I pass following order :

ORDER

- (i) Criminal Anticipatory Bail Application Nos.234 of 2020 and 235 of 2020 are allowed and disposed of;
- (ii) In the event of arrest of applicants in connection with CR No.836 of 2019 registered with Baramati City Police Station, Baramati, District Pune, the applicants be released on bail on furnishing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall report the investigating officer on 5th, 6th and 7th February 2020 between 11 am and 1 pm, and thereafter as and when called till filing of charge sheet;
- (iv) The applicants shall not tamper with evidence.

(PRAKASH D. NAIK, J.)

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