

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 611 OF 2020

Sou. Poonam Pramod Bhagat
and anr.Applicants
V/s.
State of MaharashtraRespondent

ALONGWITH

**INTERIM APPLICATION NO. 1113 OF 2020
(FOR INTERVENTION)
IN
ANTICIPATORY BAIL APPLICATION NO. 611 OF 2020**

Sou. Poonam Pramod Bhagat
and anr.Applicants
V/s.
State of MaharashtraRespondent

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Mr. Vijay Kurle, Advocate for the applicants
in ABA-611-2020.

Mr. Nitin Sejpal a/w. Ms. Akshata Desai, for
the Intervenor in IA-1113/2020.

Ms. Anamika Malhotra, APP for State.

CORAM : SANDEEP K. SHINDE, J.

Monday, 14th December, 2020.

P.C . :

1. Heard learned Counsel for the applicant, intervenor (complainant) and APP for State.

2. Apprehending arrest, in connection with Crime No. 22/2020 registered with Khandeshwar Police Station for the offences punishable under Sections 392, 452, 341, 323, 504, 506, 427 read with Section 34 of the Indian Penal Code, the applicants are seeking pre-arrest protection.

3. Complainant is brother of applicant no.2; applicant no.1 is wife of applicant no.2.

4. There are pending disputes, between the complainant, his family members on one hand and the applicants on the other hand. To say, at the instance of applicant no.1, offence has been registered against the complainant and his family members under

Sections 498A, 323, 506 of the Indian Penal Code and under Sections 3(i)(iv) of the Prevention of Atrocities (Schedule Caste & Schedule Tribes), Act, wherein pre-arrest bail was declined to them by the Sessions Court. However, in Appeal, this Court has granted ad-interim protection to the complainant and his family members, who are in-laws of applicant no.1.

5. It is alleged, on 29.1.2020, applicant no.1 barged into the office of the complainant, assaulted him and robbed Rs.1,40,000/- kept in the table drawer of the office; while it is alleged that, applicant no.1 assaulted the complainant, also had altercation with wife of the complainant. Soon after the incident, offence came to be registered.

6. Prima-facie factor that caused dispute is, inter-caste love marriage of applicant no.2 (brother of the complainant)

with applicant no.1 and diverse claim over the family property. As such, applicant no.1 has instituted proceedings under the Domestic Violence Act against the complainant and her in-laws.

7. I have perused the FIR and related proceedings including the order passed by the learned Sessions Judge while declining pre-arrest protection to the applicant. It was declined on the ground that subject theft property is to be recovered.

8. In consideration of the facts of the case, in my view, since material evidence has been brought on record by the investigating agency, which also includes CCTV footage then installed at the place of incident, custodial interrogation of the applicant is not necessary, just for recovery of cash allegedly stolen by the applicant no.1. Infact to resolve and bring the disputes to rest, it

would be appropriate, if certain conditions are imposed while granting pre-arrest bail.

9. Learned Counsel for the applicants, on instructions submits that, applicants shall file an Undertaking before this Court, stating that, applicants shall not visit the office of the complainant and/or his residence including the residence of the accused in Crime No. 146/2019 registered with Khandeshwar Police Station till the charge is framed in the said and present case. Undertaking is accepted. It shall be filed within one week from today.

10. In consideration of the facts of the case and in view of the Undertaking of the applicants, pre-arrest bail is granted on the following conditions :

ORDER

(i) In the event of arrest of the applicants in C.R. No.22/2020 registered with Khandeshwar Police

Station, they shall be released on bail on executing PR bond for the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or more sureties in the like sum.

(ii) The applicants shall report to the Investigating Officer as and when called.

(v) The applicants shall furnish particulars of their permanent residential address and contact details to the Investigating Officer.

(vi) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

11. The application is accordingly allowed and disposed of. The Interim Application also stands disposed off.

12. It is made clear that observations made hereinabove be construed as expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

Neeta
S.
Sawant

Digitally
signed by
Neeta S.
Sawant
Date:
2020.12.16
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(SANDEEP K. SHINDE, J.)