

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

16 ANTICIPATORY BAIL APPLICATION NO.1096 OF 2021

SHANKAR PANDU RATHOD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicants : Smt. Asfia Nuzhat Ansari
APP for Respondents: Mr. A.V. Deshmukh

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CORAM : PRAKASH D. NAIK J.

DATE : 29th NOVEMBER, 2021.

PER COURT:

1] The applicants are seeking pre-arrest bail in Crime No. 443 of 2021 registered with Ambad police station, Dist. Jalna for the offences under section 329, 504, 506, r/w. 34 of IPC. The FIR was registered on 10th August, 2021.

2] The FIR is registered at the instance of Navnath Shinde. According to him, he is the purchaser of 3 Acres land from Gat No. 80 in 2016 from Shankar Pandu Rathod. Shankar Rathod filed a suit which is pending. On 9th August, 2021, the complainant visited Maharashtra Gramin Bank at Ambad for withdrawing amount. He had withdrawn an amount of Rs. 1,20,000/-. While he was returning from the bank, he was accosted by the applicants/accused. The applicants/accused were also accompanied by an unknown person. Pramod Shankar Rathod pointed out knife at the neck of the complainant and threatened him of dire consequences. Amount of Rs. 1,20,000/- was forcefully taken away by the accused. Hence, the FIR has been registered for the aforesaid offences.

3] The learned counsel for the applicants submitted that the contents of the FIR are false. The suit has been filed by the accused. The civil proceedings are also initiated by Navnath Shinde in the civil

court at Ambad. The complainants and others had tried to dispossess the accused from the possession of the premises. Private complaint has been filed at the instance of the applicants before the concerned court, which is pending. On account of the civil dispute between both sides, false FIR has been registered.

4] The learned APP submitted that the complainant had withdrawn the amount from the bank on 7th August, 2021. His version is corroborated by the bank. Specific role has been attributed to the applicants. There are eye witnesses to the incident whose statements are recorded. Those witnesses have supported the version of the complainant. The statement of said witnesses were also recorded under section 164 of Cr.P.C. Investigation is in progress. Amount is required to be recovered from the applicants. Their custodial interrogation is necessary.

5] The learned counsel for the complainant submitted that all the accused have played role in the crime. The suit is filed by the accused which is pending in the court. Bank entry shows that the amount of Rs. 1,20,000/- was withdrawn on the date of the incident. While interim relief was granted to the applicants, they have indulged in threatening the complainant. Complaint was lodged with the concerned police station in that regard on 19.10.2021 which has been treated as NC complaint for offence under section 506 r/w. 34 of IPC. The incident is witnessed by several persons. The amount is required to be recovered for which custodial interrogation is necessary.

6] I have perused the FIR, the documents annexed to this application and the investigation papers. Apparently, there is dispute between both sides on account of property. The complainant has alleged that the accused have also filed a suit. Counsel for the applicants has brought my notice that suit is also filed by the complainant. The said fact is not reflected in the FIR.

7] Statements of witnesses were recorded during the course of investigation under section 161 of Cr.P.C in which witnesses have stated that the incident had occurred in their presence. Their version in the statement under section 164 runs counter to their previous version. Considering the dispute between the parties on account of property, the possibility of false implication of the applicants in the crime cannot be ruled out. In these circumstances, the applicant cannot be subjected to custodial interrogation.

ORDER

- i] ABA No.1096 of 2021 is allowed.
- ii] In the event of arrest of the applicants in crime No. 443 registered with Ambad Police Station, Dist. Jalna the applicants be released on executing PR Bond in the sum of Rs. 20, 000/- each, with one or more sureties in the like amount.
- iii] The applicants shall appear before the I.O. on 8th, 9th and 10th December, 2021 between 11.00 a.m. and 1.00 p.m. and thereafter, as and when called till filing of charge sheet.
- iv] The applicants shall not intimidate the witnesses and tamper with the evidence.
- v] The application stands disposed of.

**[PRAKASH D. NAIK]
JUDGE**

GRT/-.