

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1835 OF 2021

Mr. Mangaldas Vitthal Bandal & Anr. ...Applicants

Versus

State of Maharashtra ...Respondent

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Mr. A.P. Mundargi, Senior Advocate i/b. Mr.Vijayraj Darekar
for the Applicants.

Mrs. Veera Shinde, APP for the Respondent -State.

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CORAM: V.G.BISHT, J.

DATE: 14th OCTOBER, 2021

PC:-

1. The present Application has been moved by the Applicants under Section 438 of the Code of Criminal Procedure apprehending arrest under Sections 382, 427, 447, 506 read with 34 of the Indian Penal Code (the IPC) registered vide Crime No. 340 of 2021 with Shikrapur Police Station, Pune.

2. The informant is owner of Gat No. 1221/2 situated at Mauje Sanaswadi, Tal- Shirur, District- Pune. There is a well in the said land of his ownership. It is alleged that the Applicants are in collusion with tempo driver committed theft of water from the well of informant from time to time. When informant's son contacted Applicant No.2, it is alleged, latter threatened saying that he would forcibly take the water from the well and also threatened to kill him and his father. Informant accordingly lodged the report.

3. Mr.Mundargi, learned Senior Counsel, for the Applicants submits that the entire allegations are in respect of drawing of well water and transporting the same without permission of the Informant. According to learned Senior Counsel, the FIR is politically motivated and the Applicants have been falsely implicated. Moreover, pursuant to the ad-interim protection given by this Court, the Applicants co-operated with the Investigating Officer and are still ready to co-operate with the Investigating Officer. There being no necessity of custodial

interrogation, the ad-interim protection so granted needs to be confirmed, urged learned Senior Counsel.

4. Mrs. Shinde, learned APP, on the other hand, opposed submission by contending that the Applicants have bad antecedents and they are facing number of criminal cases. The investigation is in progress and therefore, the Application deserves to be rejected.

5. A careful perusal of the FIR would show that the only allegation against the Applicants is that they allegedly drew the water from the informant's well without his permission and indulged in criminal intimidation and extended threats to harm informant and his son's person.

6. Having regard to the nature of case, in my considered opinion, this is not a fit case for custodial interrogation. As far as the alleged antecedents are concerned, admittedly, nothing is brought on record to show that in those cases the

Applicants are convicted. Even otherwise, the facts of the case do not warrant their custody with the Investigating Officer. For this reason alone, I am inclined to allow the Application. Hence, the following order :

ORDER

- i) Application is allowed ;
- ii) The ad-interim protection granted by this Court on 20th August, 2021 is confirmed and made absolute;
- iii) The Application stands disposed of accordingly.

(V.G.BISHT, J.)

**TRUPTI
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