

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 ANTICIPATORY BAIL APPLICATION NO.1624 OF 2021

1. YUVRAJ S/O RAMRAO DESHMUKH
2. VINOD S/O RAMRAO DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Sawant Eknath P & Mr. Mahesh P Kale
APP for Respondent – State : Mr. V. M. Kagne

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 13.01.2022

ORDER :-

1. The applicants are apprehending their arrest in connection with Crime No.570 of 2021 registered with Kaij Police Station, Dist. Beed for the offences punishable under Sections 327, 504, 506 read with 34 of Indian Penal Code.

2. Heard learned Advocate Mr. E. P. Sawant for the applicants and learned APP Mr. V. M. Kagne for the respondent – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. Perusal of the FIR lodged by one Shivaji Shamrao Deshmukh would show that it is in respect of the alleged incident that had taken

place at about 3.00 p.m. on 05.12.2021. The documents are annexed to show that the father of applicants and present applicant No.1 have filed Regular Civil Suit No.324 of 2021 before the learned Civil Judge Junior Division, Kaij for injunction and it is against the informant and his two sons. It gives an impression that there is a civil dispute in respect of the land in question. Allegations were made against the informant and his sons that they have destroyed the baandh.

4. Turning to the FIR in question, perusal of the same would show that the informant is alleging that his 70 Kgs crop (seeds) and four pesticides bag, in all articles worth Rs.11,400/-, were taken by the applicants without his consent. There is no allegation about hurt to the informant. Under such circumstance, the offence under Section 327 of Indian Penal Code cannot be said to have been made out. At the most, it may give rise to Section 379 of Indian Penal Code along with the other Sections. Now, merely because the alleged stolen articles are required to be recovered from the applicants, it cannot be said that the physical custody of the applicants is required for the purpose of investigation. In fact, the learned Additional Sessions Judge allowed the application of father of the applicants for anticipatory bail, but then it appears that it was prompted because of the age of father of the applicants. It cannot be then presumed that because the present applicants are young, they

would be the person behind alleged stealing of articles. We cannot brush aside the civil suit that has been lodged by the father of the applicants and applicant No.1, which is prior in time i.e. on 22.11.2021, claiming to have possession over the disputed land. The angle of alleged false implication will have to be considered in such cases and, therefore, case is made out to release the applicants on pre-arrest bail. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) In the event of arrest of applicants viz. 1. Yuvraj Ramrao Deshmukh and 2. Vinod Ramrao Deshmukh in connection with Crime No.570 of 2021 registered with Kaij Police Station, Dist. Beed for the offences punishable under Sections 327, 504, 506 read with 34 of Indian Penal Code, they be released on P R. Bond of Rs.30,000/- with two sureties of Rs.15,000/- each.
- III) Applicants shall remain present before the Investigating Officer on every Monday and Thursday between 11.00 a.m. to 2.00 p.m. till filing of charge-sheet.
- IV) The applicants shall not tamper with the evidence of the prosecution in any manner.
- V) They shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]

scm