

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 ANTICIPATORY BAIL APPLICATION NO.1631 OF 2021

MOHAN DATTATRAYA BHINTADE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. V.S. Wakale, Advocate for applicants

Mr. V.M. Kagne, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 28th JANUARY, 2022

PER COURT :

1 Applicants are apprehending their arrest in connection with Crime No.776/2021 dated 14.11.2021 registered with Shrigonda Police Station, Dist. Ahmednagar, for the offence punishable under Section 379 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. V.S. Wakale for applicants and learned APP Mr. V.M. Kagne for the respondent.

3 It has been submitted on behalf of the applicants that allegations have been made by the real brother against the applicant No.1, who is the

real brother and applicant No.2, who is the sister-in-law of the informant. There is civil litigation pending in respect of the property; yet, the informant states that he has separate property or separate possession in respect of 1.5 acres of land, in which he has taken cotton crop. Then it is stated that, that crop has been stolen, which was worth Rs.18,000/-. The informant himself has filed suit for partition. The sister-in-law i.e. present applicant No.2 has filed Regular Civil Suit No.133/2020 for permanent injunction, which is in respect of Gat No.435 and the offence is alleged to have taken place in Gat No.434. Special Civil Suit No.24/2017 was filed by the informant for partition, under which these two properties are included. However, no injunction has been clamped on the present applicants. Miscellaneous Civil Application No.23/2021 was filed by the applicant No.2 challenging the rejection of Exh.5 in Regular Civil Suit No.133/2020. However, she has also not got any relief in her favour against the informant. This shows that the parties had cross terms, so also, offences have been registered against each other in the past and, therefore, this is another attempt to implicate the applicants. They are ready to cooperate with the investigation and they have abided by the terms of the bail, which were imposed while the ad interim relief was granted, on the last occasion, by this Court.

4 Learned APP strongly opposed the application and submitted

that the investigation is still in progress and the son of the informant is the eye witness to the incident. His statement has been recorded. It is the say of the informant that he is in exclusive possession and he had taken the cotton crop in 1.5 acres of land in Gat No.434. However, the cotton crop, which was harvested, was taken away by the applicants along with two unknown persons. Under such circumstance, the applicants do not deserve any relief.

5 At the outset, it is to be noted that there are civil as well as criminal cases between the informant and the applicants. Some of them have been referred earlier and from the documents on record it shows that the litigation has checkard history since 1998, so also, criminal complaints have been filed. When we come to the present First Information Report, it is stated that the incident had taken place on 14.11.2021 at about 1.00 a.m. The property i.e. stolen is stated to be cotton filled in 22 gunny bags worth Rs.18,000/-. What appears is that when the informant has filed Special Civil Suit No.24/2017 for partition and separate possession, then, whether he can state that some portion is in his exclusive possession. The copy of the said plaint would show that in all area admeasuirng 04 H 27 R plus 00 H 54 R barren from Gat No.434, is the suit property. In view of this position and the fact appears that no injunction is running against the applicants in the suits, it prompts this Court to consider the prayer of anticipatory bail. The

applicants were protected by this Court by order dated 06.02.2022. That order deserves to be confirmed. Accordingly, it is confirmed. Hence, following order.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicants vide order dated 06.01.2022, is hereby confirmed and made absolute. In other words, if the applicants are not formally arrested, in the event of arrest of applicants viz. **1) Mohan Dattatraya Bhintade** and **2) Minal Mohan Bhintade**, in connection with Crime No.776/2021 dated 14.11.2021 registered with Shrigonda Police Station, Dist. Ahmednagar, for the offence punishable under Section 379 read with Section 34 of the Indian Penal Code, 1860, they be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) each with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

3 The applicants shall not indulge in any criminal activity nor they should tamper with the prosecution evidence, in any manner.

4 They should cooperate with the investigation.

5 Applicant No.1 shall attend Shrigonda Police Station, Dist. Ahmednagar, on every Monday, Wednesday and Friday between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

(Smt. Vibha Kankanwadi, J.)

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