

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. ANTICIPATORY BAIL APPLICATION NO. 640 OF 2022

Milind Ramakant Ekbote and Anr. ..Applicants

Vs.

The State of Maharashtra ..Respondent

Ms. Shubhada Khot a/w. Ms. Ameeta Kuttikrishnan a/w. Ameya Mahadik a/w. Dhruv Balan, for the Applicants.

Mr. N. B. Patil, APP for the Respondent / State.

HC 5300 A. M. Kharade, Faraskhana Police Station, Pune City.

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. Normally this Court would be slow in entertaining the Application of the present nature, complaining about refusal of interim protection by the learned Sessions Judge, when the main Application seeking anticipatory bail is still pending before the learned Sessions Judge. However, upon hearing the learned counsel for the parties and perusal of record, I find that the Applicants can be protected till 15 March 2022 when the Application for anticipatory bail is due to come up before the learned Sessions Judge.

2. There appears to be a dispute between two religious factions on the point of a Darga as well as a temple, in respect of which civil proceedings are pending before the Competent Court.

3. In the present case, the Applicants who are Accused Nos.4 and 5 are seeking anticipatory bail in Crime No.29/2022 registered with Faraskhana Police Station, Pune City, under Section 120-B, 295-A, 143, 145, 149, 188, 505(2) of IPC and Section 66-A of the Information Technology Act, 2000 and Section 37(1), 37(3) and 135 of the Maharashtra Police Act, 1951.

4. The aforesaid crime is registered at the instance of Police Constable Mayur Kisan Pandhare, attached to Police Station Faraskhan. The said complaint is lodged on 2 March 2022. The allegation is that on the occasion of *Mahashivratri*, a pooja / worship was arranged in the temple in which the Applicants were present.

5. The learned counsel for the Applicants submitted that it was a public function in which several other members of the public including some Politicians and Corporators had also attended the said function. It is submitted that no action is taken against all these persons who were present. It is submitted that some of the sections which are invoked require prior sanction of the State Government before the FIR can be registered under those sections. For instance,

a reference is made to Section 295-A of the IPC. It is submitted that looking to the nature of the allegations, custodial interrogation of the Applicants is not necessary.

6. Learned APP has strenuously urged that there are several offences registered against the Applicant No.1 Milind Ramakant Ekbote while two offences are registered against the Applicant No.2 Nandkishor Ramakant Ekbote. It is submitted that inspite of the fact that there is sensitive dispute between the two religious factions on the site, a pooja was conducted, thereby endangering public peace. Learned APP pointed out that there were about 150 persons who had gathered at the said pooja.

7. I have considered the circumstances and the submissions made.

8. It is necessary to note that the main Application for anticipatory bail is still pending before the learned Sessions Judge and thus, it would not be appropriate to make any binding observation which may prejudice either the Applicants or the State, before the learned Sessions Judge. Suffice it to mention that the material allegation, at this stage against the Applicants is of taking part in a religious function of a pooja at the temple which is said to be a disputed site.

9. The learned counsel for the Applicants had pointed out that the spot of incident is at a distance of 300 metres from the disputed site and a permission was granted by the Corporation for erection of a pandal.

10. All these aspects needs to be considered by the learned Sessions Judge, while deciding the Application for anticipatory bail, which is to come up shortly on 15 March 2022.

11. Considering the over all circumstances, the Criminal Application is disposed of. No coercive steps shall be taken against the Applicants till 15 March 2022, on condition of the Applicants staying outside of the limits of the Pune Municipal Corporation. The learned Sessions Judge shall decide the Application, on its own merits, without being influenced by the grant of present interim relief. The learned Sessions Judge is directed to decide the Application finally on 15 March 2022. This order is passed in the peculiar facts and circumstances of the case and looking to the nature of the allegations made against the Applicants and shall not be treated as a precedent.

C.V. BHADANG, J.