

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Pradeep Dattatraya Khandare and Others ...Applicants
vs.
The State of Maharashtra ...Respondent

CORAM : N. J. JAMADAR, J.
DATE : JULY 05, 2022

1. Heard the learned counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R. No.48 of 2021 registered with Warje Malwadi police station, Pune for the offences punishable under sections 353, 188, 268, 269, 143 and 149 of Indian Penal Code, 1860; section 37(1)(3) read with 135 of Maharashtra Police Act, 1951; section 51(B) of Disaster Management Act, 2005 and section 7 of Criminal Law (Amendment) Act, 1952.
3. The applicant is arraigned along with the co-accused for the offences for having taken out procession on account of release of co-accused Gajanan Marne on 15th February, 2021, in breach of the prohibitory order and the directions issued in the wake of Covid 19 pandemic and in the process committed the offence of rioting and

use of criminal force to the public servant in discharge of official duties.

4. The learned counsel for the applicants invited attention of the Court to an order passed by this Court on 12th August, 2021 in Anticipatory Bail Application No. 1315 of 2021 along with connected applications. By the said order this Court was persuaded to allow the applications for pre-arrest bail.

5. The observations of the Court to paragraph Nos. 5 to 7 are material and hence extracted below:-

5] Perusal of the allegations levelled against the Applicant would reveal that his supporters have picked up the food articles from the stalls without making payment, but it prima facie, would not fall within the purview of dacoity since it does not satisfy the ingredients of robbery, which requires extortion by putting the person in fear of instant death or instant hurt or instant wrongful restraint. Section 268 of the IPC, which has been invoked along with Sections 279, 241, 504, 506, 283, 143 are bailable offences.

6] C.R. No.I-48 of 2021 invokes Sections 353, 188, 268, 269, 143, 149 of the IPC and the allegation is

that the police constable, who was implementing the order imposed during the Covid pandemic was restrained from discharging his public duty. The Complainant in the said C.R. alleges that he was pushed by hand, by the participants in the procession and without adhearing to the orders imposed for restricting the spread of Covid-19, the mob moved ahead. The only section invoked, which is non-bailable is Section 7 of the Criminal Law (Amendment) Act, which punishes an act of molesting a person to the prejudice of his employment or business and the said section imposes punishment for an act of a person committed with an intention to cause any person to abstain from doing or to do any act which a person has right to do or to abstain from doing, obstructing or use of violence or intimidating any person or loitering at or near a place where such person or member or employed person resides, so as to deprive him or hinder him in the use thereof. The offence is punishable with imprisonment, which may extend to six months or with fine. The said offence is non-bailable. The intention which is a necessary ingredient of Section 7 does not prima facie surface from the allegations levelled.

7] In any case, in the wake of all the accusations being summed up together against the present Applicant, it does not warrant the custodial interrogation and, therefore, he is entitled to be released on bail, in the event of his arrest in all the aforesaid four C.Rs. However, this is subject to the stipulation that the Applicant shall report to the respective police stations as and when called for and render all his co-operation in investigation.

6. The aforesaid reasons apply with equal force to the applicants in the case at hand. Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] In the event of arrest, in C.R. No.48 of 2021 registered with Warje Malwadi police station, Pune the applicants Pradeep Dattatraya Khandare, Bapu Shreemant Bagal, Ananta Dnyanoba Kadam, Sachin Appa Takawale and Shrikant Sambhaji Pawar be released on bail on furnishing a P.R. bond in the sum of Rs. 20,000/- each and one or two sureties in the like amount.
- 3] The applicants shall not directly or indirectly make any

inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.

4] The applicants shall report to Investigating Officer, Warje Malwadi police station, Pune as and when directed.

(N. J. JAMADAR, J.)