



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.510 OF 2023**

Pandurang Nanasaheb Rakshe and Ors. ... Applicants
versus
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.1245 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.510 OF 2023

Paras Kisanrao Borele ... Applicants/Intervener
and
Pandurang Nanasaheb Rakshe and Ors. ... Applicants
versus
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.1153 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.510 OF 2023

Alka Satish Herekar and Anr. ... Applicants/Intervener
and
Pandurang Nanasaheb Rakshe and Ors. ... Applicants
versus
The State of Maharashtra ... Respondent

Mr. Kuldeep Patil with Mr. Rohin R. Chauhan i/by Mr. A.V.Konde Deshmukh, for Applicants.

Smt A.A.Takalkar, APP for State.

Mr. Rajiv Chavan, Sr. Advocate with Ms. Priyanka Chavan, for Intervener.

CORAM: N.J.JAMADAR, J.

DATE : 11 OCTOBER 2023

P.C.

1. Heard the learned Counsel for the parties.

2. This is an application for pre-arrest bail in connection with C.R.No.69 of 2023 registered with Hinjewadi police Station for the offences punishable under Sections 141, 143, 149, 384, 427, 447, 504, 506 of the Indian Penal Code, and Section 4 read with Section 25 of the Arms Act, 1959 and Section 7 of the Criminal Law (Amendment) Act, 2013.

3. The first informant claimed to have acquired 16 gunthas of land out of Survey No.34/2/A from Alka Herekar and Satish Herekar under a registered Sale Deed dated 21 January 2022. The first informant had been in possession of the said land. Applicant Nos.2 and 3, however, caused obstruction to the first informant's possession by damaging the barbed wire fencing. When the matter was reported to the Police, the applicant No.2 threatened the first informant with dire consequences.

4. On 11 January 2023, while the first informant's labourers were working at the said land, the applicants along with 30 to 40 persons came thereat. The applicants and others formed an unlawful assembly and in prosecution of the common object of the unlawful assembly committed rioting armed with dangerous weapons, damaged the pre-cast compound wall and threatened the labourers of the first informant out of their lives if they again entered the said land. The applicant No.1 Pandurang allegedly demanded an extortion of Rs.15 lakhs. When the police arrived, the applicants and the co-accused fled away.

5. When the application was listed before the Court, noticing that there

was delay in lodging the FIR, this Court was persuaded to grant interim protection.

6. I have heard Mr. Kuldeep Patil, learned Counsel for the Applicant, Smt. Takalkar, learned APP for the State and Mr. Rajiv Chavan, learned Senior Advocate for the Applicant-intervener.

7. Mr. Kuldeep Patil submitted that there is a dispute over the the said land. The vendors of the first informant have forged the instruments under which the applicants had transferred the portion of the land to them. Attention of the Court was invited to the FIR No.653 of 2021 lodged by the Applicant – Jaywant Rakshe for the offences punishable under Sections 406, 420, 467, 468, 471, read with Section 34 of the IPC, *inter alia*, against the vendors of the first informant. It was further submitted that the first informant has, in fact, resorted to the proceedings, including a Writ Petition before this Court, seeking removal of the encroachment and action against the applicants under the provisions of the Maharashtra Regional and Town Planning Act. In the circumstances, the applicants liberty deserves to be protected, submitted Mr. Patil.

8. Learned APP and Mr. Chavan resisted the prayer for pre-arrest bail.

9. Mr. Chavan submitted that the applicants had committed rioting armed with dangerous weapons and tried to forcibly dispossess the first informant who had acquired the said land for a valuable consideration of Rs.2 Crores. Therefore, the custodial interrogation of the applicants is warranted to facilitate further investigation.

10. Prima facie, the material on record indicates that there is a dispute about the proprietary and possessory title over the said land. It is alleged that the applicants have attempted to commit encroachment nay committed encroachment over a portion of the said land and the proceedings appear to have been instituted to seek action against the applicants. It further appears that the applicants have lodged a report of cheating and forgery against the vendors of the first informant. In the aforesaid backdrop of the dispute between the parties over the said land, if the allegations in the FIR are considered, it becomes evident that the prime allegation is of forcibly dispossessing the first informant or trying to establish the possession of the applicants. It does not appear that the applicants have been attributed with the role of assault by the weapons with which they were allegedly armed to any of the persons who were present at the time of occurrence. This being the nature of the accusation, the custodial interrogation of the applicants does not seem to be warranted to facilitate further investigation.

11. Mr. Chavan submitted that the applicants may again try to forcibly dispossess the first informant. Therefore, appropriate conditions be imposed.

12. I am afraid to delve into this submission in this proceeding. It would be suffice to note that the parties may resort to appropriate remedies, as available in law.

13. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicants – Pandurang Nanasaheb Rakshe and Jaywant Laxman Rakshe and Shubham Pandurang Rakshe in connection with C.R.No.69 of 2023 registered with Hinjewadi Police Station, they be released on bail on furnishing a PR bond in the sum of Rs.30,000/- each with one or two sureties in the like amount.

(ii) The Applicants shall co-operate with the investigation and report to Hinjewadi Police Station on 19th, 20th and 21st October 2023 in between 10.00 a.m. to 1.00 p.m.

(iii) The Applicants shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the prosecution witnesses or any of the persons acquainted with the facts of the case.

(iv) The Applicants shall regularly attend the proceedings before the jurisdictional Court.

(v) The application stands disposed.

(vi) The Interim Applications also stand disposed.

(vii) It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

(N.J.JAMADAR, J.)