

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3000 OF 2023

Bhanudas Dashrath Gharat ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. R.D. Suryawanshi, for the Applicant
Mr. M.G. Patil, APP, for the Respondent/State.
Mr. B.D. Pawar, PSI, Kalyan police station.

CORAM : N. J. JAMADAR, J.
DATE : OCTOBER 26, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 535 of 2023 registered at Kalyan Taluka police station for the offencens punishable under sections 353, 332, 427, 504, 506 read with 34 of Indian penal Code, 1860.
3. The applicant had applied for a new electricity connection on 2nd September,2023. The applicant visited MSEDCL office at Khadavali along with his cousin Rohit Gharat where the first informant is posted as Jr. Engineer. When the first informant asked the applicant to clear the electricity dues in respect of other electric meters, the applicant and co-accused got enraged and assaulted the first informant by means of fist and kick blows. Hence, thus the report.

4. The learned Additional Session Judge declined to exercise the discretion in favour of the applicant, while granting the relief of pre-arrest bail to the co-accused. The fact that the applicant had committed breach of condition not to enter village Khadavali, imposed by the Court of Session while releasing him on bail in Sessions Case No. 179 of 2020 weighed with the learned Additional Session Judge to reject the prayer for pre-arrest bail.

5. The learned counsel for the applicant submitted that the role attributed to the applicant and the co-accused is identical. Since the office of MSEDCL is located on the boundary of Khadavali and Nadgaon, the applicant had visited the said office as the application for electric supply was pending since nine months. An altercation ensued and the applicant came to be falsely roped in.

6. The learned APP countered by submitting that there are statements of witnesses who have stated about the assault perpetrated by the applicant. It was further submitted that since the applicant had committed breach of the condition imposed in Sessions Court No. 179 of 2020 wherein the applicant is arraigned for the offences punishable under sections 302 and 326 of the Code, the applicant does not deserve the exercise of discretion.

7. Prima facie, there does not seem any qualitative difference between the role attributed to the applicant and the co-accused,

who was granted pre-arrest bail. The breach of condition not to enter village Khadavali is required to be appreciated in the light of the fact that visit to the MSEDCL office was to get an essential service. In the backdrop of the submission that the said office of MSEDCL is located on the boundary of the Khadavali and Nadgaon, the applicant deserves a beneficial consideration.

8. In any event, to facilitate further investigation, custodial interrogation of the applicant is not warranted. I am, therefore, inclined to exercise the discretion in favour of the applicant.

9. In the event of arrest in C.R. No. 535 of 2023 registered with Kalyan Taluka police station, the applicant be released on bail on furnishing a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

10. The applicant shall cooperate with the investigation and attend Kalyan Taluka police station, on 3rd and 4th November, 2023 in between 10 am to 1 pm and, thereafter, as and when directed.

11. The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

12. The applicant shall regularly attend the proceedings before the jurisdictional Court.

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

Application disposed.

(N. J. JAMADAR, J.)