

Shivaji Baburau Gunjal and Another ...Applicants
 vs.
 The State of Maharashtra ...Respondent

CORAM: N. J. JAMADAR, J.
DATE: NOVEMBER 8, 2023

1. Heard the learned counsel for the applicants and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 402 of 2023 registered at Khadakpada police station for the offences punishable under sections 354, 323, 504, 506, 143, 147 and 149 of Indian penal Code, 1860.
3. Jalaram Darshan building, in which the first informant and other witnesses resided, was given for redevelopment to a developer Akruti Housing Partnership Firm. Mr. Kiran Shiledar and Mahendra Gunjal, the partners, under Redevelopment Agreement dated 6th December, 2021. The developers had agreed to deliver the possession of the redeveloped building within one and half year of the said agreement. A dispute arose.

4. The first informant alleges the developers were asked to stop the work. On 12th September, 2023 when the first informant and other members of the society had visited the site, they found that the developers had started construction without intimation to the society. An altercation ensued.

5. The applicants and the co-accused Kiran Shiledar and Mahendra Gunjal allegedly abused and assaulted the first informant and the other witnesses. The applicants and the co-accused Mahendra Gunjal allegedly used criminal force to the first informant with intent to outrage her modesty and tore off her clothes. Hence, the report.

6. The learned counsel for the applicants submitted that the applicants are not the developers. Attention of the Court was invited to the redevelopment agreement dated 6th December, 2021 wherein the co-accused Kiran and Mahendra, who is the son of the applicant No. 1, are shown as the developers. It was further submitted that the applicants are the residents of Nashik and they have been falsely roped in.

7. The learned APP submitted that there are specific allegations of forming an unlawful assembly and committing the offences in prosecution of common object, including the offence of outraging the modesty of the first informant.

8. Prima facie, it appears that dispute arose over the pace of the redevelopment project. Prima facie, applicants do not appear to be the parties to the redevelopment agreement. At this stage, the aspect as to whether the applicants were present at the time of occurrence cannot be delved into. However, in the backdrop of the nature of the accusations, the question as to whether the applicants had used the criminal force with intent to outrage the modesty of the first informant appears debatable as evidently a fracas followed an altercation. I am, therefore, persuaded to exercise the discretion in favour of the applicants.

Hence, the following order.

ORDER

1] In the event of arrest in C.R. No.402 of 2023 registered with Khadakpada police station, the applicants 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, each.

2] The applicants shall cooperate with the investigation and attend Khadakpada police station, on 21st and 22nd November, 2023 in between 10 am to 1 pm and, thereafter, as and when directed.

3] The applicants 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.

4] The applicants shall regularly attend the proceedings before the jurisdictional Court.

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

Application disposed.

(N. J. JAMADAR, J.)