

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

ANTICIPATORY BAIL APPLICATION NO.558 OF 2024

Vinayak Dnyaneshwar Korde	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Vilas V. Bambarde, Advocate for the Applicant.
Ms. Rajshree V. Newton, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 28th FEBRUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.51/2024 registered at Samata Nagar Police Station, Mumbai on 20.1.2024 under sections 384, 385, 323, 504, 506 427 read with 34 of IPC.

2. Heard Mr. Vilas Bambarde, learned counsel for the Applicant and Ms. Mahalakshmi Ganapathy, learned APP for the Respondent-State.

3. The FIR is lodged by one Brijesh Gaud. He has stated that he was having a business of selling fruits since 2014 near Kandivali Railway Station. In 2016, the Applicant came near his fruit selling cart and threatened him. He demanded extortion money of Rs.20,000/- and Rs.300/- per day. The other fruit sellers told the informant that if the money was not paid to the Applicant, he used to assault them and they were prevented from carrying out their business. Therefore, the informant gave Rs.20,000/- to the Applicant and used to give Rs.300/- per day. It is his case that the extortion money was handed over to the Applicant's associate Shrikant Shete. This continued even during the lock-down. On 5.1.2024, the Applicant again approached the informant and asked him to increase the extortion money. The same thing was repeated on 17.1.2024. On this occasion, the Applicant assaulted him and abused him. It is the case of the informant that the Applicant and his associate Shrikant Shete were repeatedly coming to his place of business and they used to threaten him. On these allegations, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the associate Shrikant Shete is granted anticipatory bail by this Court vide order dated 15.2.2024 in A.B.A. No.438/2024. He invited my attention to the notice dated 17.1.2024. It mentions that the complainant was Brijesh i.e. the first informant in this case and on his complaint an N.C. complaint was lodged. The number of that N.C. complaint was not mentioned but the Sections are mentioned as Sections 323, 504, 506 of IPC. Significantly the date of this complaint is also 17.1.2024. Said notice was issued under Section 149 of Cr.P.C.. Learned counsel, therefore, submitted that there were no allegations of extortion as can be seen from the sections applied in that complaint. The notice does not refer to any allegations of extortion.

5. Learned APP produced the investigation papers in this case which contain statements of eye witnesses Rajendra Gupta and Arun Kumar Gupta. They were other fruit sellers of that area. They have supported the first informant. However,

their statements are recorded on 22.1.2024 and 26.1.2024.

There is some delay in recording those statements.

6. I have considered these aspects. Learned APP even after taking instructions from the investigating agency could not explain as to why the notice under Section 149 of Cr.P.C. refers to an N.C. complaint lodged by the same complainant i.e. Brijesh. She could not explain why there is reference to only Sections 323, 504 and 506 of IPC and as to why the offence of extortion was not mentioned. Considering this notice, sufficient doubt is created about the prosecution case. Learned counsel for the Applicant submitted that there are two rival groups in that locality and since the Applicant was belonging to the opposition party he is falsely implicated. There is substance in his submission in this background.

7. In this view of the matter, the Applicant's custodial interrogation would not be justified. He can be protected under section 438 of Cr.P.C.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.51/2024 registered at Samata Nagar Police Station, Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned police station as and when called and shall cooperate with the investigation.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2024.03.02
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