

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

ANTICIPATORY BAIL APPLICATION NO. 1108 OF 2024

1. Navnath Vishwanath Hargude,
2. Mahadeo Dashrath Hargude,
3. Sagar Tukaram Hargude ..Applicants

Versus

The State of Maharashtra ..Respondent

Mr. Mahendra Kawchale (through V.C.) for Applicants.

Mr. Nitin B. Patil, APP for State/Respondent.

Mr. Ghanashyam Jadhav for complainant.

CORAM : SARANG V. KOTWAL, J.

DATE : 23 APRIL 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.351 of 2024 registered at Shikrapur Police Station, Pune rural, on 29.03.2024, under sections 141, 143, 147, 379, 447, 427, 504 and 506 of the Indian Penal Code.

2. Heard Mr. Mahendra Kawchale, learned counsel for the applicants, Mr. Nitin Patil, learned APP for the State and Mr. Ghanashyam Jadhav, learned counsel for the complainant.

3. The F.I.R. is lodged by one Rajesh Bhujbal. He has stated that, his father had purchased a land at Gat No.337/2 at Sanaswadi from one Gopale in the year 2011. The informant had made plots on that land. They were surrounded by the cement poles and a wire compound. The applicants had threatened him in respect of that land dispute. They had damaged the compound. The informant had lodged an N.C.No.1661 of 2023 at Shikrapur police station on 22.11.2023 in that behalf. The subject matter of the F.I.R. is the incident dated 27.03.2024 which had taken place around 11.30a.m. At that time, the informant was in Sanaswadi chowk. He came to know that somebody was destroying the compound on his land with JCB machine. He went there. He saw that the applicants were present there and there were two JCB machines in that land. There was a tractor and a trolley. It is alleged that the two workers on that JCB machines and the drivers were removing the compound. The applicant No.1 Navnath was supervising that work. He was instructing them to carry on that work without fear. It is alleged that the applicants had removed 350 poles from the spot. They were taken away. On these allegations the F.I.R. was

lodged.

4. Learned counsel for the applicants submitted that the applicants had a separate land in Gat No.337/2. They did not share the boundaries of their land with those of the informant's land. One Pawar family has their land adjacent to the land of the first informant. The basic dispute is between the Pawar family and the informant's family. He submitted that the informant has already filed a Civil Suit before the 2nd Jt. C.J.J.D., Ghodnadi, vide the R.C.S.No.87 of 2023. Learned Judge, vide the order dated 28.06.2023 had ordered maintenance of status-quo. Learned counsel submitted that, these are the false allegations and the applicants have not committed any offence. They have not carried any poles or any other material from the land. They are falsely implicated to pressurise them.

5. Learned APP produced the investigation papers before me. He submitted that, there is a statement of one police constable Nikhil Rawde supporting the informant's case. There are statements of other eye witnesses. He, therefore, submitted that considering the strong material against the applicants, the

applicants may not be protected.

6. Learned counsel for the first informant supported the submissions of the learned APP. He submitted that the altercation took place between the parties and all those poles etc. were removed and taken away by the applicants. Therefore, the offence of theft U/s.379 of the I.P.C. is made out. The applicants were found on the spot, therefore, their involvement is clearly made out. The applicants have violated the status-quo order granted by the civil court. Therefore, the applicants may not be protected.

7. I have considered these submissions. There are statements of Samarth Narke who was employed with the informant, Amit Bhujbal who is cousin of the informant and Rushikesh Pingle who was their friend. They have supported the contentions and the statements in the F.I.R. Sambhaji Ukirde had carried out some work on that land together with the informant. Ramdas Narke had put up that compound with those poles on 02.01.2023. Learned APP relied on the photographs which were taken before and after the incident; which showed the compound wall standing at the spot before the incident.

Learned counsel for the applicants submitted that, both Pawar and Bhujbal families were in the business of selling plots by levelling the land. For that purpose, they themselves had removed the compound wall.

8. I have considered these submissions. The offences U/s.447 and 427 of the I.P.C. are bailable offences. Therefore, only question for consideration of this anticipatory bail application is whether there is sufficient material attracting the provisions of Section 379 of the I.P.C. In that behalf, the only independent witness who had gone to the spot is police constable Nikhil Rawde. His statement shows that the applicants were present at the spot and there were two JCB machines. However, he has not seen anybody carrying away those cement poles from the spot. It was an open land and it was easily possible to get some independent witness who had seen the accused actually taking away those cement poles. The informant's case is that, as soon as he came to know about the incident, he immediately gave a distress call on the helpline number and the said police constable immediately reached the spot. In that view of the matter, it was expected that

the said police constable would have seen some activities of taking away those cement poles. But his statement is completely silent on this aspect. Therefore, at this stage, there is hardly any material attracting provisions U/s.379 of the I.P.C. against the applicants. The applicants can be protected U/s.438 of the Cr.p.c.

9. Hence, the following order :

ORDER

- i) In the event of their arrest in connection with C.R.No.351 of 2024 registered at Shikrapur Police Station, Pune rural, the applicants are directed to be released on bail on their executing P. R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.
- ii) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)