

1. Rahul Jaiwant Haribhakt		
2. Sanket Rahul Haribhakt		
3. Aryan Rahul Haribhakt	...	Applicants
Vs.		
State of Maharashtra	...	Respondent

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CORAM : MANISH PITALE, J.
DATE : OCTOBER 08, 2024

P.C. :

Heard Mr. Navpute, learned counsel for the applicants and Mr.Malshe, learned APP for the respondent-State.

2. In this application, on 21.05.2024, this Court had recorded a statement made by the learned APP, on instructions from the investigating officer, that the police would not arrest the applicants till the next of hearing, subject to the applicants co-operating with the investigation. By the very same order, the applicants were directed to attend the concerned police station on every Monday and Wednesday for two weeks, with the further direction to them to co-operate with the investigation.

3. It is undisputed that the applicants indeed abided by the said directions.

4. Today, the application is taken up for further consideration. The learned counsel for the applicant invited attention of this Court to the

statement leading to registration of the FIR and he submitted that the same was based on order passed by the Magistrate, as an application under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C.) was moved by the informant. In the said statement, reference was made to incidents dated 15.10.2022 and 04.06.2023, in respect of which allegations were made against the applicants herein. It is submitted that the dispute between the parties is essentially in the nature of a civil / commercial dispute, in the backdrop of a partnership, wherein applicant No.2 had invested substantial amounts while entering into a limited liability partnership with the son of the informant in the context of a gymnasium business. The said business ran into rough weather and when a dispute arose between the parties, the aforesaid FIR came to be registered. Reference is also made to an FIR dated 02.08.2023 registered before the very same police station, wherein the applicant No.1 is the informant. The said FIR is registered against the police sub-inspector for offence under Section 7 of the Prevention of Corruption Act, 1988. It is specifically stated therein that when the informant had approached the police for registration of the FIR, the said police sub-inspector had approached the applicant No.1 and demanded bribe of Rs.50,000/-. It is submitted that the aforesaid registration of the FIR is also a factor that may be taken into consideration, while disposing of the present application.

5. It is submitted that the applicants have co-operated with the investigation and no case is made out for seeking their physical custody.

6. On the other hand, the learned APP relies upon the statement leading to registration of the FIR. It is submitted that the FIR cannot be said to be delayed, for the reason that the last incident took place on 04.06.2023 and on 30.06.2023 itself, the informant was constrained to move the concerned Magistrate under Section 156(3) of the Cr.P.C. It is

only after the Magistrate passed an order on the said application, that the FIR came to be registered on 21.02.2024. It is submitted that ingredients of the offences registered against the applicants are indeed made out in the present case, and therefore, no indulgence may be shown to the applicants.

7. This Court has perused the material on record. A perusal of the FIR shows that the non-bailable offences, in the present case, are Section 380 (Theft in dwelling house), Section 453 (Punishment for lurking house-trespass or house-breaking) and Section 454 (Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment) of the Indian Penal Code, 1860 (IPC). The allegations in the statement leading to registration of the FIR, in the context of the aforesaid offences, pertain to two incidents dated 15.10.2022 and 04.06.2023. But a closer look at the material on record indicates that the genesis of the dispute between the informant and the applicants in the present case lies in a commercial dispute between the parties. In the application moved before the Magistrate as well as a complaint submitted before the police, prior to approaching the Magistrate, the informant has conceded to the fact that the applicant No.2 had invested substantial amount in a business wherein the son of the informant was a partner with the applicant No.2. It appears that when the business failed, disputes arose between the parties, which led to differences of opinion and quarrels. The dispute, therefore, appears to be essentially of a commercial nature, which has then led to allegations being levelled against the applicant. In this backdrop, the allegations pertaining to house trespass and theft in dwelling house *prima facie* appear to be exaggerated and therefore, this Court is inclined to grant relief to the applicants.

8. The FIR registered at the behest of the applicant No.1 against the

police officer under the provisions of the Prevention of Corruption Act will proceed in accordance with law. But, the registration of the said FIR does indicate that the informant can be said to be using the criminal process to settle scores in respect of the disputes that essentially appear to be commercial in nature.

9. As noted hereinabove, the applicants have indeed abided by the directions issued by this Court, while granting them interim protection by order dated 21.05.2024. Hence, the application is allowed in the following terms:-

- A. In the event the applicants are arrested in connection with FIR No.0038 of 2024 dated 21.02.2024 registered with Vishrambaug Police Station, District - Pune City, they shall be released on bail on furnishing PR Bond of Rs.25,000/- each with one or two sureties in the like amount;
- B. The applicants shall co-operate with the investigating officer during the course of investigation;
- C. The applicants shall not influence the informant, witnesses or any person concerned with the case and they shall not tamper with the evidence.

10. Needless to say, violation of any of the aforesaid conditions would make the applicants liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

11. The application is disposed of.

(MANISH PITALE, J.)