

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

ANTICIPATORY BAIL APPLICATION NO. 1725 OF 2024

Goraksh Ramesh Gade & Anr.

...Applicants

Versus

The State of Maharashtra

...Respondent

- Mr. Nitin Sejpal a/w Ms. Pooja N. Sejpal, for Applicant.
- Mr. Bapu V. Holambe Patil, APP for Respondent.
- Mr. Kiran Tukaram Rondale, API, Ambad Police Station, Nashik City.

CORAM : MANISH PITALE, J.

DATE : 02nd July, 2024.

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P. C. :

1. Heard, Mr. Nitin Sejpal, learned counsel for the applicant and Mr. Bapu Holambe Patil, learned APP for the State.

2. The applicants have approached this Court as they are apprehending arrest in connection with First Information Report No.I-341 of 2023, dated 06th June, 2023, registered at Police Station Ambad, District Nashik, for offences under Sections 389, 454, 457 and 427 read with 34 of the Indian Penal Code (IPC).

3. The applicants are two of the four accused persons in the present case. They had approached the Sessions Court seeking anticipatory bail, but their application was rejected by an order dated 26th June, 2023.

4. It is significant that in the present case, the FIR was registered

more than a year ago and the anticipatory bail application of the applicants was also rejected more than a year ago. It is the case of the applicants that since they were sought to be taken into custody recently, they were constrained to move this Court by filing the present application. Although the learned APP submits that the applicants have been absconding, this is denied by the learned counsel for the applicants.

5. Having heard the learned counsel for the applicants and the learned APP, the following *prima facie* conclusions can be reached.

(A) The co-accused persons i.e. two ladies were arrested and they were granted bail on the very next day by the Magistrate by order dated 07th June, 2023. While, granting bail to the co-accused persons, the Court of Magistrate specifically recorded that there was a civil dispute between the parties.

(B) The co-accused person i.e. Krishna Rejendra Gade had filed an application under Section 156(3) of the Code of Criminal Procedure before the Judicial Magistrate, First Class, Nashik, for registering offences against the firm of which the informant is a partner. It is alleged that forged documents were executed by and on behalf of the said firm, on the basis of a Power of Attorney, while the person who executed the Power of Attorney was already dead.

(C) The competent Magistrate had dismissed the application moved by the said co-accused Krishna Rajendra Gade and the said order is subject matter of

challenge before this Court in Criminal Writ Petition (Stamp) No. 10389 of 2023, wherein notice has been issued.

(D) A civil suit was filed by the said Krishna Rajendra Gade and the same is pending against the firm of which the informant is a partner and the informant himself is a defendant in the said suit. The said proceeding also pertains to the allegedly fraudulent and fabricated sale deed executed by the aforesaid firm. The suit was filed in April, 2023.

(E) The material on record indicates that there is a backdrop of a civil dispute between the parties and also the fact that the co-accused Krishna Rajendra Gade is pursuing criminal writ petition before this Court for registration of the offences against the informant and his partnership firm.

6. The aforesaid *prima facie* conclusions reached by this Court on the basis of the material available on record, does indicate the backdrop in which the subject FIR was registered on 06th June, 2023. The allegation is that the applicant and co-accused persons stole construction material from a shop belonging to the informant. The material was said to be valued at about ₹ 34,000/-, part of which is already recovered by the Investigating Authority.

7. In these circumstances, so long as the applicants are ready to cooperate with the Investigating Officer, a case is indeed made out for granting anticipatory bail, subject to appropriate conditions being imposed.

8. In view of the above, the application is allowed in the following terms :

- (A) In the event the applicants are arrested in connection with FIR No.I-341 of 2023, dated 06th June, 2023, registered at Police Station Ambad, District Nashik, they shall be released on furnishing PR bond of ₹ 25,000/- each and one and two sureties in the like amount to the satisfaction of the Trial Court.
- (B) The applicants shall remain present before the Investigating Officer on 05th July, 2024 and thereafter as and when called by the investigating officer. They shall cooperate with the investigation.
- (C) The applicants shall not tamper with the evidence in any manner. They shall not influence the informant, witnesses or any other persons concerned with the case.
- (D) The applicants shall cooperate with the proceedings in the Trial Court and they shall remain present before the Trial Court on each and every date, except when specifically exempted by the Trial Court.

9. Needless to say, in case of violation of any of the aforesaid

conditions, the bail granted to the applicants shall be liable to be cancelled.

10. It is made clear that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant and that the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

11. The application is disposed of.

(MANISH PITALE, J.)