

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1779 OF 2015

Milind s/o Murlidhar Medhe & Ors. **APPLICANTS**

V E R S U S

The State of Maharashtra & Anr. **RESPONDENTS**

.....

Mr. N.N.Desale, Advocate for Applicants.

Mr. A.S.Shinde, A.P.P. for R – 1 State.

Mr. Raghwendra Bhise h/f Mr. S.V.Natu,
Advocate for first informant.

.....

CORAM : V.M.DESHPANDE, J.

DATE : 24th APRIL, 2015

.....

PER COURT :

1. Since the applicants are apprehending their arrest in connection with Crime No. 25/2015 registered with Varangaon police station, Dist. Jalgaon for the offences punishable u/s 143,147,148,149,353,323,354,332,504,506 of the Indian Penal Code, they are before this Court.

2. Heard Mr. N.N.Desale, learned counsel for Applicants, Mr. A.S.Shinde, learned A.P.P. for Respondent No. 1– State and Mr. Raghwendra Bhise holding for Mr. S.V.Natu, learned counsel for first informant in extenso.

3. F.I.R. is lodged on 26/03/2015. Date of incident is 19/03/2015. Thus, there is delay of seven days in lodging F.I.R. Learned counsel for first informant urged before this Court by pointing out the complaint that the complaint is dated 19/03/2015 and, therefore, if there is delay in registration of F.I.R., it is due to fault on the part of police authority and not on the part of first informant. Though the complaint is dated 19/03/2015, there is nothing available on record to show that first informant has actually filed complaint on the very same day. On the contrary, F.I.R. shows that information was received at police station on 26/03/2015 vide 'sana' at station diary No. 85/2015. In that view of the matter, *prima facie*, it shows that though the complaint is dated 19/03/2015, however the complainant has approached police station and filed the same on 26/03/2015. There is no explanation as to why there is delay.

4. Further, against first informant complaint is lodged on 02/03/2015, with authority by Sujay Mahipatrao Tayde wherein it is alleged that due to the negligence on the part of first informant, he lost his unborn child. In the F.I.R., there is reference of Sujay Mahipatrao Tayde, who was one of the persons, who has tried to obstruct first informant in discharging the official duty.

5. Prior to approaching before this Court, applicants had filed application for anticipatory bail before learned Additional Sessions Judge, Bhusawal, which is rejected on 31/03/2015. From the perusal of the order passed by

learned Additional Sessions Judge, it appears that learned Additional Sessions Judge has refused to grant anticipatory bail in favour of the applicants, on considering that the valuables of the first informant are lost and, therefore, their custody is required. In that behalf, accusations made in F.I.R. are as under, :

“ सदर घटनेचे वेळी माझे जवळ असलेली पर्स चेंजिंग
रूम मध्ये ठेवलेली होती त्यामध्ये माझे महत्वाचे समान व
मौल्यवान वस्तू होत्या व मायकरो मक्स कंपनीचा नवीन
कोरा मोबईल असे हरविलेले आहे ते मला मिळून आले
नाही. ”

6. Thus, from the aforesaid, it is clear that it is not the accusation of the first informant that any of the present applicants are responsible for stealing the said articles. On the contrary, specific assertion is made that those are lost. In that view of the matter, custodial presence of present applicants is not at all necessary.

7. Hence, I pass the following order :

(i) Present Criminal Application is hereby allowed.

(ii) In the event of arrest, in connection with Crime No. 25/2015 registered with Varangaon police station, Dist. Jalgaon for the offences punishable u/s 143,147,148,149,353, 323,354,332,504,506 of the Indian Penal Code, applicant No. 1 Milind s/o Murlidhar Medhe,

applicant No. 2 Mala @ Maltabai Milind Medhe, applicant No. 3 Mukesh Milind Medhe, applicant No. 4 Aakash Milind Medhe, applicant No. 5 Vikki Milind Medhe, applicant No. 6 Rupesh Ashok Medhe, applicant No. 7 Manda Ashok Medhe and applicant No. 8 Sujay Mahipatrao Tayade be released on anticipatory bail on they executing P.R. Bond of Rs. 5,000/- [Rupees Five Thousand] with one solvent surety of like amount by each of them.

(iii) The observations made in the present order shall not influence the learned Judge of the Court below, who shall be conducting the trial.

(iv) With these observations, present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]