

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1872 OF 2015

Mr. Ashok Shrirang Mote & Ors.	...	Applicants
Vs.		
The State of Maharashtra	...	Respondent

Mr.S.V. Gavand, Adv. for the applicants.
Mr. S.S. Pednekar, APP for the State.
Mr. B.A Lawate, Adv. for the intervener.

CORAM : SMT ANUJA PRABHUDESSAI, J.

DATE : 15th December, 2015.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicants apprehending their arrest in Crime No.277 of 2015 registered at Sangola Police Station, Solapur for the offences punishable under Sections 365, 171, 504 and 506 read with 34 of the IPC.

2. The case of the prosecution in brief is that on 14th November, 2015 at about 1 a.m., the applicant No.1 had abducted the complainant Hanumant Namdev Mane, under the pretext of taking him to the house of one Dattupant Jadhav. It is further alleged that the other applicants joined the applicant No.1 on the way and instead of taking the complainant to the house of Dattupant, they took him to

Kalamboli, Navi Mumbai and confined him in a lodge. The applicants are alleged to have dropped the complainant at Malshiras on 15th November, 2015 at 6 p.m. The complainant thereafter lodged the FIR on 17th November, 2015 at Sangola Police Station, pursuant to which the aforesaid crime came to be registered on 21st November, 2015.

3. The applicants, apprehending their arrest in the said crime, had filed an application for anticipatory bail being Criminal Misc. Application No.496 of 2015 before the Sessions Court, Pandharpur. The said application came to be dismissed vide order dated 2nd December, 2015. The applicants have, therefore, filed this application for anticipatory bail under Section 438 of Cr.P.C.

4. Mr. Gavand, the learned counsel for the applicant has submitted that, there is delay in lodging the complaint as well as in registering the offence. He has further submitted that the material on record does not indicate that the complainant was unwilling to accompany the applicants. He has further submitted that the averments in the complaint do not indicate that the applicant had abducted the complainant against his wishes or that the complainant was wrongfully and secretly confined in the lodge or any other place.

He has further submitted that the present complaint is filed at the instance of Uttam Khandekar, due to political rivalry.

5. Mr. Pednekar, the learned APP for the State submitted that the FIR prima facie discloses essential ingredients of Section 365 of the IPC. The learned APP submits that the complainant was abducted with an intention of keeping him away from the election process. The learned APP submits that the offence is of serious nature. It is further submitted that the delay in lodging the FIR is explained in the FIR and that the same cannot be a ground for grant of anticipatory bail.

6. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. The FIR lodged by Hanumant Mane prima facie indicates that on 14th November, 2015 at about 1 a.m., the applicant No.2 had visited his house and had told him to accompany him to the house of one Dattupant Jadhav. It is alleged that instead of taking the motorcycle to the house of Dattupant Jadhav, the applicant No.2 proceeded towards the road leading towards Sangola and subsequently made him join the other applicants who had come by a Jeep. It is stated that the applicant Nos.2 & 3 brought him to the

lodge at Kalamboli, Navi Mumbai. The allegations in the FIR further reveal that, the complainant was allowed to make a phone call to his family. The allegations further prima facie reveal that the complainant had accompanied the applicants to the restaurant, to the tailor shop, to a dance bar and cinema theater.

7. The records do not prima facie indicate that the complainant was confined in the lodge or any other place but indicates that the complainant visited several public places with the applicants. There is nothing on record to prima facie indicate that the complainant had raised an alarm or that he was accompanied the applicants against his wishes.

8. The records further reveal that the complainant had not chosen to lodge the complaint immediately after he was released, but had filed the complaint only after meeting Uttam Khandekar, one of the political rivals of the applicants.

9. The nature of the allegations coupled with the delay in lodging or registering the FIR do not justify custodial interrogation. The applicants are the permanent residents of Solapur district. There

is no possibility of the applicants absconding or thwarting the course of justice. The applicants, therefore, are entitled to bail.

10. Under these circumstances the application is allowed on the following terms and conditions.

1. In the event of arrest of the applicants in Crime No.277 of 2015 registered at Sangola Police Station, Solapur, the applicants shall be released on bail bond of Rs.20,000/(Rupees Twenty Thousand Only) each with one or two sureties in the like amount to the satisfaction of the JMFC, Sangola.
2. The applicants shall report to investigating officer for 4 days from 10 am to 1 pm and further as and when required by the investigating officer for the purpose of the interrogation.
3. The applicants shall not tamper with the evidence or influence complainant and witnesses in any manner.
4. The applicants shall not leave Solapur district till filing of the chargesheet without prior permission of JMFC, Sangola.

(ANUJA PRABHUDESSAI, J.)