

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1763 OF 2015

1. Shri Maktoom Babusaheb Nadaf & Anr.

2. Shri Ramzan Marimasab Madhabhavi : Applicants

Vs.

The State of Maharashtra : Respondent

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Mr. Mohd. Saeed Asgar Moghul for the applicant.

Ms. Veera Shinde Addl. Public Prosecutor for the State.

Mr. V. G. Bhalerao, Police Sub Inspector, Sahapur Police Station,
Ichalkaranji, Dist. Kolhapur (Present).

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : December 14, 2015.

P.C. :

. This is an application for anticipatory bail, filed by the aforesaid applicants, apprehending their arrest in Crime No. 110 of 2015 registered at Sahapur Police Station for offences under sections 363, 367, 342, 323 r/w 34 of the IPC.

2. The case of the prosecution in brief is that :

On 22nd November 2015 the applicants and the other co-accused had abducted the first-informant Shafiq with an intention of causing grievous injuries to him. It is further alleged that the applicants had assaulted and wrongfully confined said Shafiq. Based on the said allegations made in the FIR, the aforesaid crime came to be registered against the applicants and other co-accused.

3. The application for anticipatory bail filed by the aforesaid applicants before the Sessions Court, Ichalkaranji, came to be dismissed by an order dated 17th October 2015. Hence the applicants have preferred this application under section 438 of the Cr.P.C. Mr. Moghul, learned Counsel for the applicants has submitted that the allegations leveled in the FIR do not constitute an offence under section 367 of the IPC. He has further submitted that the other offences are bailable and as such the applicants are entitled for Anticipatory Bail

4. Ms. Veera Shinde the learned Addl. Public Prosecutor submits that the allegations leveled against the applicants prima facie constitute an offence under section 367 of the IPC. She has submitted that the offence is of serious nature and as such the applicants are not entitled for Bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicants and the learned APP for the State. The records prima facie reveal that the applicants used to repair old bullet motorcycles. Abdul khadar was known to the complainant and at the request of said Abdul khadar, the complainant acted as a middle man sold him a bullet motorcycle of 1974 model belonging to one Suresh Chavan. It is alleged that neither the vehicle was transferred in the name of the complainant nor the possession of the vehicle was given to Abdul Khadar. The records prima facie reveal that

applicant No. 1 and the co-accused - Abdul Khadar had confronted the complainant and told him to handover the said vehicle. The complainant had alleged that the said Abdul Khadar and the applicant No. 1 herein had assaulted by means of iron road and on 22nd September 2015 they had taken him to Vijapur, where Abdul Khadar told him to procure NOC or else to pay Rs. 1,00,000/- to him. It is further alleged that the said Abdul Khadar and the applicant herein had obtained his writing on stamp paper and thereafter dropped him at Vijapur, where his wife is residing.

6. The allegations made in the FIR, in my considered view, do not prima facie, indicate that the complainant was abducted with an intention of causing grievous injuries. The averments in the complaint do not prima facie constitute offence under section 367 of the IPC. The other offences areailable. Considering the nature of the allegations leveled against the applicants, in my considered view, this is not a case which would justify custodial interrogation. The fact that the applicant is not a native of the State is not a ground to reject the application as the presence of the applicants can be secured by imposing stringent conditions.

7. Under these circumstances, the application is allowed on following terms and conditions :

- (a) In the event of arrest of the applicants in Crime No. 110 of 2015 registered at Sahapur Police Station, the Applicants shall

be released on bail on furnishing Bail Bond of Rs. 20,000/- (Rupees Twenty Thousand only) each with two local sureties in the like amount to the satisfaction of JMFC, Ichalkaranji.

- (b) The applicants shall report to the Investigating Officer initially for a period of 4 days from 10.00 a.m. to 1.00 p.m. from the date of receipt of this order.
- (c) The applicants shall furnish to the Investigating Officer the permanent address as well as temporary address, if any, within a period of 2 days from the date of receipt of this order. The Investigating Officer shall verify the addresses before the applicants are released on bail.
- (d) The applicants shall not interfere with the complainant or the witnesses in any manner.

(ANUJA PRABHUDESSAI, J.)