

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.413/2015

**(Prashant Tulshiram Wagh and ors. ..vs.. The State of Maharashtra, through PSO
P. S. Shirpur, Tq. Malegaon, Dist. Washim)**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. R. N. Ghuge, Advocate for applicants.
Mr. V. A. Thakare, A.P.P. for non applicant-State.
Mr. N. B. Kalwaghe, Advocate for intervener.

CORAM : V. M. DESHPANDE, J.

DATE : SEPTEMBER 2, 2015.

Criminal Application (APP) No.949/2015

This is an application filed on behalf of the first informant opposing the anticipatory bail arising out of Crime No.70/2015 to assist the learned A.P.P.

Looking to the nature of the prayer made, the application is allowed. Mr. Kalwaghe, Advocate is permitted to assist the learned A.P.P. and also to submit the case of the first informant independently.

Criminal Application (ABA) No.413/2015

Heard Mr. Ghuge, learned counsel for applicants, Mr. Thakare, learned A.P.P. for non applicant-State and Mr. Kalwaghe, learned counsel for the intervenor in extenso.

The application is for pre-arrest bail. At the outset, the learned counsel for the applicants submits that he has instructions to withdraw the application filed on behalf of applicant no.1-Prashant

Tulshiram Wagh. In that view of the matter, the application of Prashant is hereby dismissed as withdrawn.

The FIR is lodged by the prosecutrix herself. It is dated 21.07.2015. The statements of facts, which are asserted in the FIR shows that on 16.07.2015, the prosecutrix boarded an auto of applicant no.5-Santosh since she was to go to a place near Govardhan for School. In the said auto, the other co-passengers were also there. According to this FIR, near a poultry farm, the auto stopped and at that time, applicant no.1-Prashant, along with applicant no.2Sanjay and applicant no.3-Vaibhav came there and forcibly lifted her and took her in a Bolero vehicle.

In the FIR, it is further stated that when the first informant boarded the auto rickshaw, her co-passengers were her friends Gayatri, Rohini and Riya. Their statement are recorded by the Investigating Officer. During the course of the investigation itself, these three independent prosecution witnesses did not support the version of the prosecutrix that at the poultry form, the applicants Sanjay and Vaibhav forcibly took away the prosecutrix in Bolero car. Insofar as applicant no.4-Ramdas is concerned, he is the uncle of applicant-Prashant and in the FIR there is no overt act attributed against him except a general

statement that he has extended threat to the prosecutrix. So far as application of applicant nos. 5 and 6 is concerned, they are auto driver and driver of the Bolero vehicle. The FIR clearly shows that the overt acts are attributed against the applicant-Prashant. Further, there is nothing in the prosecution case that applicant no.5-Santosh and applicant no.6-Balu were having knowledge of the things that will be happening in future. There is nothing available on record that they had shared any intention with the main accused Prashant.

On the aforesaid prima facie evaluation of the prosecution case, custodial presence of applicant nos. 2 to 6 is not at all necessary. The learned A.P.P. and the learned counsel for the first informant submit that the purpose will be served, if stringent conditions are imposed upon the applicants.

Learned counsel for applicants submits that applicant no.2-Sanjay and applicant no.3-Vaibhav will not enter the territorial jurisdiction of village Shelgaon (Rajgure) till charge-sheet is filed.

In view of above, following order is passed.

ORDER

(i) Criminal Application (ABA) No.413/2015, insofar as applicant no.1-Prashant Tulshiram Wagh is concerned, is dismissed as withdrawn.

(ii) Criminal Application (ABA) No.413/2015, insofar as applicant no.2-Sanjay Babanrao Wagh, applicant no.3-Vaibhav Sheshrao Wagh, applicant no.4-Ramdas Pandharirao Tayade, applicant no.5-Santosh Gajanan Chavan and applicant no.6-Balu Ganeshrao Wagh is concerned, is allowed.

(iii) Applicant no.2-Sanjay Babanrao Wagh, applicant no.3-Vaibhav Sheshrao Wagh, applicant no.4-Ramdas Pandharirao Tayade, applicant no.5-Santosh Gajanan Chavan and applicant no.6-Balu Ganeshrao Wagh, in the event of their arrested in Crime No.70/2015, for the offence punishable under Sections 363, 366-A, 354 (a) & (d), 342, 506 (2) read with Section 34 of the IPC and Section 10 of the POCSO Act registered with Police Station, Shirpur, Dist. Washim, shall be released on they executing P.R. Bond in the sum of Rs.10,000/- each with one surety each in the like amount.

(iv) It is directed that Applicant no.2-Sanjay Babanrao Wagh and applicant no.3-Vaibhav Sheshrao Wagh shall not enter the territorial jurisdiction of village Shelgaon (Rajgure) till the charge-sheet is filed by the Investigating Officer before the court.

(v) Applicant no.2-Sanjay Babanrao Wagh, applicant no.3-Vaibhav Sheshrao Wagh, shall attend Police Station, Shirpur, Tq. Malegaon, Dist. Washim twice in a week, on every Wednesday and Thursday

till the filing of the charge-sheet. During these two days, the applicants shall be with the Investigating Officer from 11.00 a.m. to 4.00 p.m.

(vi) Applicant no.4-Ramdas Pandharirao Tayade, shall attend Police Station, Shirpur, Tq. Malegaon, Dist. Washim once a week i.e. on every Tuesday till the filing of the charge-sheet. During these days of attendance, the applicant shall be with the Investigating Officer from 4.00 p.m. to 5.00 p.m.

(vii) Applicant no.5-Santosh Gajanan Chavan and applicant no.6-Balu Ganeshrao Wagh shall attend Police Station, Shirpur, Tq. Malegaon, Dist. Washim once in a fortnight on Sunday till the filing of the charge-sheet. During these days of attendance, the applicants shall be with the Investigating Officer from 4.00 p.m. to 5.00 p.m.

(viii) The applicants shall not pressurize the prosecutrix or any other prosecution witnesses.

JUDGE