

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

CRIMINAL APPLICATION (ABA) NO.525 OF 2015

Sandeep S/o Dadarao Patil (Lod) and anr

..vs..

State of Mah., thr its PSO, Balapur Police Station, Taluka Balapur, District Akola

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

Court's or Judge's Order

Shri Anil Mardikar, Sr.Counsel for the Applicants.

Shri A.D. Sonak, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : OCTOBER 27, 2015.

Heard.

By the present application under Section 438 of the Code of Criminal Procedure, the applicants are seeking the relief of pre-arrest bail since the applicants are apprehending their arrest in connection with Crime No.239 of 2015 registered with Police Station Balapur, Taluka Balapur, District Akola for the offences punishable under Section 394 read with Section 34 of the Indian Penal Code.

The first informant is one Sanjay Shantaram Shelke. He has lodged a report on 22.9.2015 in the wee hours of 22.9.2015 in respect of the occurrence on 21.9.2015.

According to the FIR, the occurrence took place at 22:00 hours. The first informant was proceeding towards village Manarkhed. In between villages

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Manarkhed and Mandoli, one Tata Safar bearing registration No.MH-27-2727 all of a sudden brought before the vehicle in which the first informant was travelling. Thereafter, it is alleged that the present applicants, who were in Tata Safar, accosted the first informant. The present applicant No.1 gave a razer blow whereas applicant No.2 snatched the golden chain of the first informant.

From the statement of prosecution witness Dadarao it is clear that the first informant as well as applicant No.1 are involved in politics and they are politically opponent to each other. This fact could also be gathered from the FIR itself that there was long standing dispute in between them. The first informant was referred to the hospital for his medical examination. He was examined at 11:20 pm. Doctor, who has examined the first informant, has found that injury No.1 which is 7cm in length and half cm in breadth is of self inflicted injury. The other injury which is on his back from the query report it appears that it is half cm. The age of the injury is only half an hour prior to the medical examination. The incident has occurred at 10:00 pm. In that context, the reply given by the medical officer to the query raised in respect of the injury is relevant, which reads thus :

*“left arm injury (डाव्या हातावरची जखम स्वतः केलेली आहे
(himself) व पाठीवरील जखम ही दुस-याकडून करून घेतलेली आहे कारण)*

heagitation seen on left arm injury.”

During course of the investigation, the investigating officer has recorded a statements of Ganesh, Nilesh, and Rahul. Ganesh claims that at 10:00 o'clock, he received a phone call on his cell phone from the first informant. The said thing is substantiated by Nilesh and Rahul. Not only that, Nilesh and Rahul specifically mentioned the cell number on which the phone call was made by the first informant. According to them, the phone call was received from the first informant on a cell number 9426651136. The investigating officer has placed on record the CDR report of the cell phone of the first informant in respect of the date 21.9.2015. The CDR report shows that from the cell phone of the first informant various calls are made from 5.5 hours in the morning till 23.15 hours in the night of the said day. There is no CDR report in respect of the phone call made to cell phone 9426651136. Therefore, it clearly belies the prosecution case that the first informant has made cell phone call to Ganesh.

Looking to the aspect that present applicant No.1 and the first informant are politically enemy and further the Doctor himself has noticed that the injury on the left arm is self inflicted injury, that *prima facie* shows that false implication is not completely ruled out.

In that view of the matter, the applicants are entitled to be released on anticipatory bail. That leads me to pass the following order :

ORDER

1] The criminal application for grant of anticipatory bail is allowed.

2] In the event of arrest of the applicants in connection with Crime No.239 of 2015 registered with Police Station Balapur, Taluka Balapur, District Akola for the offences punishable under Section 394 read with Section 34 of the Indian Penal Code, applicants – Sandeep S/o Dadarao Patil and Ravindra @ Ravi Vijay Jadhav be released on bail on their executing Personal Bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one solvent surety each in the like amount till filing of the charge sheet

3] The applicants shall attend Police Station Balapur, Taluka Balapur, District Akola on every Sunday between 3:00 pm to 5:00 pm.

4] Needless to mention that all observations made in this order are purely *prima facie* while deciding the present application and learned Judge of Court below shall not be influenced by the order of this Court.

With these directions and observations, the criminal application is allowed and disposed of.

JUDGE

!! BRW !!

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