

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

CRIMINAL APPLICATION NO. 5692 OF 2016

Anand alias Vaibhav s/o. Bhagwan Salve .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.M.A. Latif, Advocate for the applicant.

Mr.S.B. Yawalkar, A.P.P. for respondent/State.

WITH

CRIMINAL APPLICATION NO. 5904 OF 2016

Bhagwat s/o. Kisanrao Bawne .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

Mr.R.N. Chavan, Advocate for the applicant.

Mr.S.B. Yawalkar, A.P.P. for respondent/State.

Mr.M.A. Latif, Advocate for respondent No.2.

CORAM : A.M. BADAR,J.

DATED : 20.10.2016

P.C. :-

1. The applicant/accused in Crime No.210 of 2016, registered with Chandan Jheera Police Station, Dist. Jalna, for offences punishable under sections 394, 452, 324, 427, 506 of the Indian Penal Code and under section 4/25 of the Arms Act, by this application is seeking pre-arrest bail.

2. Heard learned Counsel for the applicant/accused. He argued that there is cross F.I.R. in this matter as father of the present applicant had suffered fracture injury in the incident in question. The instant F.I.R. is lodged falsely as counter-blast to the F.I.R. by accused persons in this case. Learned Counsel by drawing my attention to the F.I.R., argued that the allegations of robbing the informant of his gold chain ascribed to two unknown persons and therefore the applicant is in no way concerned with that aspect. The case is that of simple theft. Learned Counsel further argued that rest of the offences are bailable in nature. Father of the applicant is already released on anticipatory bail and the applicant is not having any criminal antecedents.

3. Learned A.P.P. as well as learned Counsel appearing for the informant opposed the application by contending that the act was committed conjointly and therefore role of accused persons in the crime in question cannot be segregated. Learned Counsel for the informant further drew my attention to the representation of the villagers showing that accused persons are threatening villagers of lodging false cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. I have carefully considered rival submissions and also perused the documents annexed to the application as well as application for assisting the prosecution. I have also gone through the order of the learned Sessions Judge as well as the F.I.R. lodged by injured Bhagwat Bawne, while taking treatment at Government Hospital at Jalna.

5. According to the prosecution it is reflected from the F.I.R. lodged by the injured witness that in the year 2015 he had purchased field Gat No.57-A admeasuring 1 H 56 R from owners of that field. On 13.07.2016 the applicant along with co-accused Bhagwat attempted to extort an amount of Rs.10 lakhs from him on the pretext that the land is owned by accused persons. On 14.07.2016 when the informant, his brother Vikram and his friends Subhash Vyavahare and Eknath Vaidya were present at Hotel Tiranga, the applicant and his father Bhagwat with their two associates came to the Hotel. The informant was threatened with an utterance that by hoisting blue flags, the land of the informant will be encroached. Then, the applicant took out a sword from his vehicle and smashed the windscreen of Innova vehicle of the informant. Then there was an attempt to give blow of that sword to the informant but his friend Subhash Vyavahare intervened and

suffered injury by that blow.

6. Learned Sessions Court has observed that Subhash Vyavahare had categorically stated in his statement that present applicant gave blow of sword to him. Thereafter, gold chain weighing 10 tolas was snatched from the informant by two associates of the applicant. Thereafter, the hotel was ransacked and there was threats from accused persons regarding lodging of false case under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, to the informant.

7. Prim facie, it is seen that the informant is injured in the incident as his F.I.R. was recorded while taking treatment at the Government Hospital, Jalna. His friend Subhash has stated that the applicant had given blow of sword to him. The F.I.R. shows that the applicant by using sword smashed windscreen of the vehicle of the informant. The hotel was ransacked. With all these material and as all accused persons came on the spot in one car of Safari make, it cannot be said that the applicant is not involved in the offence punishable under section 394 of the Indian Penal Code, which requires conjoint act. The same is reflected from the F.I.R.

8. In this view of the matter, no case for anticipatory bail is made out. The application is rejected.

9. In view of disposal of main application, application for permitting to assist the public prosecutor stands disposed of.

[A.M. BADAR, J.]