

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

Criminal Application No. 5723 of 2016

District : Beed

Uttareshwar s/o. Parasram Gaike,
Age : 73 years,
Occupation : Agriculture,
R/o. Dhangar Wada, Kasaba Area,
Dharur, Taluka : Dharur,
District : Beed. .. Applicant.

versus

The State of Maharashtra,
Through Police Station, Dharur,
Taluka : Dharur,
District : Beed. .. Respondent.

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Mr. Sudarshan J. Salunke, Advocate, for the applicant.

*Mr. S.D. Ghayal, Addl. Public Prosecutor, for the
respondent.*

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CORAM : A.M. BADAR, J.

DATE : 26TH OCTOBER 2016

ORAL ORDER:

The applicant / accused in Crime No. 99/2016, registered with Dharur Police Station, District Beed, for offences punishable under Sections 307, 365, 342, 323, 504, 506, 120B, read with Section 34 of the Indian Penal Code and under Section 31A, 32B of the Bombay Money Lenders Act, 1946, by this

application, is seeking pre-arrest bail.

2. Heard the learned Counsel appearing for the applicant / accused. He argued that the applicant is in no way concerned with the alleged incident of abduction and secret confinement of informant Manohar s/o. Baliram Gaike. The applicant is his cousin and there is civil dispute between them leading to initiation of several proceedings.

3. The learned Addl. Public Prosecutor opposed the application by contending that averments of the informant are supported by statements of independent witnesses as well as injury certificate of the informant.

4. I have considered the rival submissions and perused the case diary. According to informant Manohar Gaike, he had borrowed an amount of Rs. 50,000/- from co-accused Nana s/o. Bharat Shingare. Subsequently he refunded that amount with interest. Still Nana Shingare was insisting for refund of that amount. According to the informant, on 06.09.2016, he was abducted by Nana Shingare and his driver Ganesh and was taken to the house of Nana Shingare in the field by the motorcycle. There, he was confined by tying his hands and legs. Nana Shingare then attempted to commit his murder by strangulating him by means of a string. Subsequently he was released from confinement and then he took treatment at the

hospital of Dr. Thombre. The informant averred that because of fear, he could not lodge report. With these material averments, the informant also averred that present applicant Uttareshwar Gaike and co-accused Yashwant Gaike were also supporting co-accused Nana Shingare because he had lodged several proceedings against them.

5. Perusal of papers of investigation does not show that applicant Uttareshwar Gaike or co-accused Yashwant Gaike are in any way concerned with other accused namely Nana Shingare and Ganesh. There is no iota of evidence to infer conspiracy. It appears from the FIR itself, that there is civil dispute between the informant and his cousin i.e. present applicant Uttareshwar Gaike. Taking an opportunity of the incident of his abduction, prima facie it appears that informant Manohar Gaike has also implicated the present applicant in the crime in question.

6. In this view of the matter, custodial interrogation of applicant Uttareshwar Gaike is not warranted.

7. Hence, I pass the following order :-

(a) The Application is allowed.

(b) The applicant / accused, in the above crime, in

the event of his arrest, be released on bail on his executing P.R. Bond in the sum of Rs. 15,000/- and on furnishing one or more solvent sureties of the like amount.

(c) As conditions of this order, the applicant / accused shall abide by the following directives :-

(i) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(ii) The applicant shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial, in the event of filing charge-sheet, if any, against him.

(d) The Application stands disposed of in the above terms.

(A.M. BADAR)
JUDGE

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