

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.345 OF 2016

1. Sudhakar Parshuram Ghare .Applicants
2. Pramod Vishwanath Deshmukh

Vs.

The State of Maharashtra .Respondent

WITH

**CRIMINAL APPLICATION NO.184 OF 2016
(For Intervention)**

IN

ANTICIPATORY BAIL APPLICATION NO.345 OF 2016

Arvind Bhagwan Shikhtonde .Intervenor

IN THE MATTER BETWEEN

1. Sudhakar Parshuram Ghare .Applicants
2. Pramod Vishwanath Deshmukh

Vs.

The State of Maharashtra .Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.434 OF 2016

1. Santosh Pandurang Ghare .Applicants
2. Bhushan Sadashiv Durge
3. Ganesh Bagharam Patil
4. Machinda Gopinath Gholap
5. Santosh Shankar Durge
6. Subhash Chandrakant Shirke
7. Dashrath Bhau Nanekar

8. Mangesh Gajanan Durge
9. Ganesh Madhukar Durge
10. Milind Ramdas Lobhi
11. Mahesh Pundalik Patil
12. Jagdish Vasant Turde

Vs.

The State of Maharashtra

.Respondent

Mr.A.P.Mundargi, Senior Counsel i/b. Mr.Sachin Pawar, for the Applicants in both matters
Mr.Y.M.Nakhwa, APP, for the Respondent – State
Mr.P.D.Dalvi, Advocate, for the Intervenor in
Cri.Appln.No.184 of 2016

CORAM : REVATI MOHITE DERE, J.

DATE : 14.03.2016

P.C.

. Heard learned Senior counsel for the Applicants, learned counsel for the intervenor and the learned APP for the Respondent – State.

2. By these Applications, the Applicants seek pre-arrest bail in connection with C.R.No.I-21 of 2016 registered with the Karjat Police Station, District - Raigad, for the alleged offences punishable under Sections 143, 147, 148, 149, 323, 341, 342, 365, 504 & 506 of the Indian Penal Code.

3. According to the Complainant, he was working as a marketing agent in an agency by the name 'Yakshashri Beverages', which was owned by Manish Omprakash Patesaria. It is stated that the said Manish Patesaria had a water bottling plant, at Karjat and was supplying bottled water to the Railways. It is stated that as the contract came to be cancelled by the Railways, the Company was shut down in November, 2015. It is stated that on 01.02.2016, Manish Patesaria sent some persons including the Complainant to the factory site, to check the possibility of re-starting the said factory. It is alleged that when the Complainant alongwith others came to the said factory, one Santosh Ghare came there and questioned them, as to why they had opened the factory. It is alleged that he asked them to shut the factory and accompany them to meet Sudhakar Ghare – Applicant No.1 in ABA No.345 of 2016. It is alleged by the Complainant that he disclosed the said fact, to his employer

Manish Patesaria. It is further stated that the Complainant and others were taken to the office of Sudhakar Ghare and they were detained and that within 5-10 minutes, Sudhakar Ghare came there, took hold of their mobiles and assaulted them with fist and kick blows. It is alleged that Sudhakar Ghare questioned them, as to why they had come to the factory and asked Rahul Pawar to go to their Advocate and ask him, whether the case against him could be withdrawn. Thereafter, it is stated that they were released by Sudhakar Ghare. The Complainant has disclosed the names of some of the other assailants who were alleged to have been present, at the time of the incident along with other unknown persons.

4. Mr.Mundargi, learned Senior counsel contended that all the sections except Section 365 of the I.P.C. are bailable offences. He submitted that no ingredients of Section 365 of the I.P.C.

are disclosed. He submitted that the incident in question had taken place on 01.02.2016 and that pursuant to the alleged incident, statements of the Complainant and others were recorded by the police, who were allegedly detained by Sudhakar Ghare. He relied on one such statement, which is on page No.96 of the Application, in support of his contention. He submitted that thereafter, for the first time, after six days, the present FIR has lodged, at the behest of Manish Patesaria on 07.02.2016. He has also produced a copy of the station diary entry of 01.02.2016, in support of his submission, that no such incident as alleged had taken place and that the Complainant and others, who were questioned by the police officer, had disclosed that they had gone to the office of Sudhakar Ghare to attend a meeting, and that they were neither threatened nor detained by the Applicant.

5. Mr.Pradhan supports the aforesaid submissions.

6. Learned APP opposes the Bail Applications. He submits that the statements which were recorded subsequently, show that the Complainant and others had not disclosed the said incident, out of fear of the Applicants. Learned counsel for the intervenor supported the submissions advanced by the learned APP.

7. Perused the papers, including the statements which were recorded on 01.02.2016 which have been signed by the Complainant and others. According to the said statements, they had gone to the office of Sudhakar Ghare, to attend the meeting and have denied that they were threatened and abused in the said meeting. It is further stated that by the said persons that , the police had come to Sudhakar Ghare's office, on a complaint made by

Manish Patesaria, pursuant to which they were brought to the police station and questioned, whether they were unlawfully detained by Sudhakar Ghare and others. There is a station diary entry dated 01.02.2016 which supports the said statements dated 01.02.2016. In the complaint/FIR dated 07.02.2016, the Complainant has stated that he alongwith others were taken to Sudhakar Ghare's office and were threatened and assaulted. It is stated that thereafter, they were released. No injury certificate has been produced on record, by the prosecution or by the learned counsel for the intervenor, to show that the Complainant or others had received any injuries in the said assault.

8. Considering the material on record and the peculiar facts of the case, the Applicants are granted anticipatory bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount;
- (ii) The applicants shall attend the Crime Branch, Alibaug on **17th & 18th March, 2016** between **10.00 a.m. and 12.00 noon** till the filing of the charge-sheet and thereafter as & when called for by the investigating officer;
- (iii) The applicants shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;
- (iv) The applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station.

9. The Applications are allowed in the aforesaid terms and are accordingly disposed of.

10. In view of disposal of the Anticipatory Bail Application Nos.345 & 434 of 2016, the Intervention Application No.184 of 2016 does not survive and the same stands disposed of accordingly.

11. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)