

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1388 OF 2016

1 Lakhan Nana Nanaware.
2 Ramchandra Dadaso Nanaware.
3 Mahesh Baban Aware.
4 Yuvraj Jagannath Gaikwad. ... Applicants.

Versus

The State of Maharashtra. ... Respondent.

Mr. D.D. Rananaware, advocate for Applicants.

Mr. Prashant Jadhav, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 16, 2016**

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal
Procedure, 1973. The applicants herein are apprehending their arrest
in C.R. No. 2 of 2016 registered at Lonand Police Station, Satara for

the offence punishable under Section 363, 395 of the Indian Penal Code. The case of the prosecution is that in the intervening night of 31/12/2015 and 1/1/2016, the applicants herein alongwith one Ganesh Gaikwad and Lakhan had assaulted the complainant Amol Raskar by stick, leather belt etc. The principal allegation seems to be for the offence punishable under Section 363 read with Section 34 of the Indian Penal Code. It is alleged that the complainant was called upon by Ganesh Gaikwad and was taken in his Scorpio Jeep bearing No. 11 JH 3940 to Vathar Phata. It is alleged that Ganesh Gaikwad alongwith the present applicants had snatched the gold chain from the complainant and also a cash of Rs. 1,900/-.

3 It is pertinent to note that the principal accused Ganesh Gaikwad has been protected by this Court by way of pre-arrest bail in Criminal Anticipatory Bail Application No. 67 of 2016 vide order dated 15/1/2016. It is was observed by this Hon'ble Court on the basis of the papers of investigation that there was initially an altercation between Vikas Bhujbal, the driver to the complainant and

the applicant- Ganesh Gaikwad. It is observed that Ganesh Gaikwad and the complainant were known to each other and the incident had occurred due to previous dispute between the driver of the complainant and Ganesh Gaikwad.

4 The learned Counsel for the applicants submits that by virtue of doctrine of parity, the applicants also deserve to be granted pre-arrest bail. It prima facie does not appear to be a case of abduction or an offence under Section 363 of the Indian Penal Code as name of the applicant No. 2, 3 and 4 do not appear in the first information report, as they were shown to be unknown person, associates of Ganesh Gaikwad and Lakhan Nanaware.

5 Taking into consideration the nature of allegations and the observations made by the Hon'ble Predecessor Bench(Coram : Smt. Anuja Prabhudesai, J) in the order dated 15/1/2016 (ABA No. 67/16), the applicants also deserve to be protected by this Court.

6 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same while deciding the application for discharge or quashing of FIR or at the time of trial.

7 Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) In the event of arrest in C.R. No. 2 of 2016, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- each and one or two sureties in the like amount.

(iii) The applicants shall report to the concerned police station on 18/9/2016 and 25/9/2016 between 10 a.m. to 12 noon and cooperate with the investigating agency to the best of their capacity.

(iv) The applicants shall not tamper with the evidence.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)