

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

Criminal Application No. 01139 of 2017

District : Dhule

1. Rajesh s/o. Prabhakar Vasawe,
Age : 40 years,
Occupation : Agriculturist,
R/o. Khandbara,
Taluka Navapur,
District Nandurbar.
2. Nitin s/o. Kochyra Valvi,
Age : 30 years,
Occupation : Agriculturist,
R/o. Khandbara,
Taluka Navapur,
District Nandurbar.
3. Amit s/o. Vanusing Valvi,
Age : 27 years,
Occupation : Agriculturist,
R/o. Waghde,
Taluka Navapur,
District Nandurbar.
4. Sagar s/o. Ravindra Ahire,
Age : 20 years,
Occupation : Garage owner,
R/o. Khandbara,
Taluka Navapur,
District Nandurbar.
5. Sushilkumar s/o. Ramanlal
Pardeshi,
Age : 35 years,
Occupation : Tea stall owner,
R/o. Khandbara,
Taluka Navapur,
District Nandurbar.

.. Applicants
(Original accused)

versus

1. The State of Maharashtra.
2. The Investigation Officer,
Dhule City Police Station,
District Dhule.

.. Non-applicants.

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Mr. C.R. Deshpande, Advocate, for the applicants.

*Mr. V.S. Badakh, Addl. Public Prosecutor, for
non-applicant nos.01 and 02.*

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CORAM : T.V. NALAWADE, J.

DATE : 17TH MARCH 2017

ORAL ORDER :

By the present application, the applicants are seeking pre-arrest bail in connection with Crime No. 259/2016, registered with Dhule City Police Station, District Dhule, for offence punishable under Section 392 read with Section 34 of the Indian Penal Code.

02. The crime is registered on the basis of report given by one truck driver. The incident took place in the night between 20.12.2016 and 21.12.2016, at about 09.00 p.m. The first informant was taking his truck towards Nandurbar and he had started at Indore (Madhya Pradesh). It is his case, that when he was near Toll Naka situated at Dhule-Surat bypass road, one Bolero vehicle overtook the truck and persons from Bolero vehicle compelled them to stop the truck. It is alleged that the driver of the Bolero vehicle and two other occupants of the Bolero vehicle came near the truck and stated to the cleaner, who was driving the truck, that he had shortened the side for their Bolero vehicle. Then they asked the cleaner to accompany them to the

Police Station. They manhandled and abused the cleaner. Thereafter, occupants of Bolero vehicle forcibly took the complainant and the cleaner with their truck to other spot. In the FIR, he has given approximate ages of those persons and he has contended that he and cleaner were robbed of mobile handset, cash amount and some other articles like PAN Card, Aadhar Card, ATM Card, etc. Thereafter, they left them on the road and also took away their truck with them. The complainant and the cleaner somehow approached the Police and FIR came to be lodged on 21.12.2016.

03. Papers of investigation and remand report show that during the course of investigation, one Ashpak Abdul Gani Shaikh came to be arrested and during interrogation, he supplied information that the present applicants are involved in the offence. Ashpak Abdul Gani Shaikh has stated in his statement, that the present applicants are engaged vehicle stealing. However, the truck in question and other articles are not yet recovered.

04. Learned Addl. Public Prosecutor pointed out the call detail record of applicant nos.01, 03 and 05 showing that at the time of incident, location of these applicants is shown at the spot of the incident and they were having conversation with each other. At the relevant time, some accused were in the truck and some were in Bolero jeep.

05. Learned Advocate for the applicants drew my attention to some inconsistencies and submitted that considering the originating and destination place of the complainant, some other shortest route was available to them and there was no reason for the complainant to carry the truck on the road where the incident allegedly took place. He further submitted that the information given by said Ashpak Abdul Gani Shaikh is inconsistent with the contents of the FIR.

06. The aforesaid circumstances, as are canvassed by the learned Advocate for the applicants, cannot be considered at this stage. Serious offence is committed and thorough investigation is required to be made. Unless custody of the applicants is obtained, the investigation cannot make progress in the matter like the present one. Therefore, this Court holds that this is not a fit case to grant pre-arrest bail.

07. In the result, the Application is rejected.

08. It is made clear, that the observations made in this order are prima facie in nature and limited for disposal of the present Application.

(T.V. Nalawade)
JUDGE

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