

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1006 OF 2020

- 1) Lalchand s/o Narayan Khandade,
Age 45 years, Occupation Agril.,
R/o Pachan-Wadgaon Tq. And
Dist. Jalna. At Present Kirkonben
Nagar, Satara Parisar, Aurangabad.
- 2) Santosh s/o Balaram Chungade,
Age 35 years, Occupation Labour,
R/o Mukundwadi, Radha-Krishna
Colony, Aurangabad.
- 3) Dhiraj s/o Balaram Chungade,
Age 29 years, Occupation Service,
R/o As above.

...Applicants

VERSUS

The State of Maharashtra,
Through Police Station Taluka
Jalna Tq. Dist. Jalna.

...Respondent

.....
Advocate for Applicants : Mr. S. J. Salunke.
APP for Respondent-State : Mr. S. Y. Mahajan.
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 10-12-2020.

ORDER :

1. Present application has been filed by the applicants under
Section 438 of CrPC, who are apprehending their arrest in connection

with Crime No.374 of 2020, registered with Taluka Jalna Police Station Tq. Dist. Jalna, for the offence punishable under Section 436, 504, 506 read with 34 of the IPC.

2. It has been vehemently submitted on behalf of the applicants that the FIR is nothing but a concocted version and an afterthought case by the brother of the applicant No.1. The applicants are witnesses in criminal case bearing RCC No.1400 of 2020 presently pending before the learned Judicial Magistrate, First Class, Aurangabad, for the offence punishable under Section 302, 394, 452, 201, 120-B, 34 of IPC, wherein police have arrested Satish Kaluram Khandade and Arjun Devchand Rajput (Lohinde). The Satish is the son of informant in this case i.e. Kaluram whereas Arjun is son-in-law. The informant is threatening the applicants that they shall not give evidence against his son and son-in-law. A non-cognizable report No.435 of 2020 has been registered against the informant, his wife and daughters on 13-06-2020. Further the wife of present applicant No.1 had informed police on 02-10-2020 that the informant, his wife and other relatives had threatened and pelted stone on the house and it was also stated that she is apprehending that a false report would be lodged by Kaluram. With this

background when a false complaint has been lodged now against applicants, they deserve to be released on bail.

3. Per contra, the learned APP strongly opposed the application stating that the panchanama of the spot prepared by the Investigating Officer would show the expensive damage caused to the house and articles therein. There is enmity between the two brothers which is a double edged weapon. If the applicants can do such act then possibility of tampering with the evidence cannot be ruled out.

4. At the outset, it is to be noted that the information that is lodged by Kaluram Khandade is in respect of an incident that had allegedly taken place on 23-06-2020 at about 10.00 a.m. The FIR is lodged on 25-06-2020. There appears to be delay in lodging the report. The said FIR has also a reference about death of applicant No.1's son and daughter. According to Kaluram, the present applicant was saying as to why his son Satish and son-in-law Ajay had murdered applicant No.1's son and daughter. Now nothing is required to be seized at the instance of present applicants. Further apart from the said murder case in which the son and son-in-law of the informant are involved, it can be seen that from the side of the

present applicants two non-cognizable cases have been lodged stating that the present informant has tried to pressurize them. On this background definitely the liberty of the present applicants is not required to be curtailed. This Court by order dated 03-11-2020 had granted interim protection to the applicants, the same deserves to be confirmed and made absolute. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) The order passed by learned Additional Sessions Judge-3, Jalna in Criminal Misc. Application (Bail) No.1433 of 2020, dated 17-10-2020, is hereby set aside. Said application stands allowed.
- 3) The ad-interim protection, granted by this Court earlier to applicants on 03-11-2020, is hereby confirmed and made absolute.
- 4) In the alternative if the applicants are not formally arrested, in the event of arrest of applicants Lalchand Narayan Khandade, Santosh Balaram Chungade and Dhiraj Balaram Chungade, in connection with Crime No.374 of 2020, registered with Police Station Taluka Jalna Dist. Jalna, for the offences punishable under Section 436, 504, 506, 34 of Indian Penal Code, they be released on PR and SB of Rs.15000/- each (fifteen

thousand).

5) The applicants shall not indulge in any criminal activity and they shall not tamper with the evidence of prosecution in any manner.

6) The applicants shall attend the concerned police station on every Monday and Wednesday between 10.00 a.m. to 02.00 p.m., till filing of charge-sheet and shall co-operate with the investigation.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-