

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 ANTICIPATORY BAIL APPLICATION NO.1195 OF 2020

KACHRU MALHARI SAGAT

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. V.B. Deshmukh, Advocate for applicant

Mr. S.R. Yadav, APP for respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 22nd DECEMBER, 2020.

ORDER :

1 Present application has been filed by the applicant for pre-arrest bail, as he is apprehending his arrest, in connection with Crime No.310/2020 dated 27.10.2020 registered with Naldurg Police Station, Dist. Osmanabad, for the offence punishable under Section 395 of the Indian Penal Code.

2 Heard learned Advocate Mr. V.B. Deshmukh for the applicant and learned APP Mr. S.R. Yadav for the respondent.

3 It has been vehemently submitted on behalf of the applicant that the applicant is innocent person. He was not even present when the alleged incident stated to have taken place, in which the amount of Rs.2,00,000/-

was snatched by co-accused. The present applicant has been shown as accused No.11 and the allegations against him are that he had stopped the informant when the informant was proceeding to lodge report and threat was given of dire consequences. It is submitted that physical custody of the applicant is not required for the purpose of investigation. He is ready to abide by any terms of bail that may be imposed by this Court.

4 The learned APP has strongly opposed the application for grant of any interim relief contending that the contents of the FIR are very much clear and specifically attributes role to the present applicant, though the applicant appears to be not knowing the informant. Amount of Rs.2,00,000/- have been snatched after causing injury to the informant and his colleague. The investigation is still incomplete, and therefore, physical custody of the applicant would be definitely required.

5 At the outset, it is to be noted that the matter was coming for the first time, however, unless it would have been shown by the applicant that extraordinary facts are present in favour of the applicant to grant the discretionary relief in his favour; his entire application would be dismissed.

6 Information has been lodged by one Sunil Govind Nagwade, who is an agriculturist by profession. He was knowing one Gulab Jagtap and his

labour by name Anil Maruti Kamble. Informant grows sugarcane in his field and manufactures jaggery. He was in search of labour for cutting sugarcane. Anil Kamble went to the house of the informant on 21.10.2020 and asked him whether he is in need of group of labour. When informant answered in the affirmative, he told that his brothers Netaji and Gautam are having group of labours for cutting sugarcane. Thereafter, there was communication between them and it was decided to engage the group of labours of the brothers of Anil. Informant took amount of Rs.2,00,000/- in cash for giving it to those persons for contract of cutting the sugarcane. He along with Anil Kamble were proceeding in his four wheeler. They were intercepted by about eight persons, who were unknown to him. Anil introduced one of them as Tukaram Pardhe and that person then introduced the others. Informant was also with his friend Sudhir Yadav, at that time. Anil then told informant that he should distribute the amount. Thereafter, all those other persons started assaulting informant and his friend Sudhir. Anil and Gautam then snatched the carry bag from the hands of informant, which was containing amount of Rs.2,00,000/-. All of them, thereafter, fled away. When informant and his friend started towards Itkal Police Chowki to lodge report, at that time, one person came from Scorpio vehicle bearing registration No.MH-25/5959, disclosed his name as Kacharu Sagat (present applicant) and threatened the informant that he shall not lodge any report to police, otherwise he would

face dire consequences. Yet, it appears that the informant lodged the report.

7 Here, it is to be noted that the information has been almost immediately lodged i.e. at about 5.52 a.m. on 27.10.2020. Though, as regards the present applicant is concerned, the informant does not say that he was present at the spot; yet unless he would have had the knowledge about the plan he could not have resisted the informant and his friend from lodging report by giving threat of dire consequences. A plea of *alibi* is also tried to be taken, however, that is to be proved by him at the time of trial, which cannot be considered at this stage. The applicant, therefore, does not deserve the extraordinary relief in the form of anticipatory bail. The application stands rejected.

(Smt. Vibha Kankanwadi, J.)

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