

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

**ANTICIPATORY BAIL APPLICATION NO.229 OF 2021
WITH APPLN/825/2021 IN ABA/229/2021**

SANDESH MADHAV JADHAV
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Pathan Hamzakhan I.
APP for Respondent/State : Mrs. R.P. Gaur
Advocate Assist to APP : Mr. H.H. Padalkar

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CORAM : MANGESH S. PATIL, J.

DATE : 09.04.2021

PER COURT :

The applicant is apprehending his arrest in connection with Crime No.33/2021 registered with Biloli Police Station, District Nanded for the offence punishable under Section 394, 452, 294 and 506 of the Indian Penal Code.

2. The FIR reads that questioning as to where the brother of the informant was and hurling abuses in filthy language the applicant forcibly entered into the farm house of the informant's brother where the informant was present. After hurling abuses he threatened him of dire consequences and also snatched a gold chain from around his neck. The applicant also assaulted him. The incident is stated to have taken place on 10.02.2021 at about 13:00 hours. The FIR was lodged on 11.02.2021 at 2:12 hours.

3. The learned advocate for the applicant would submit that the applicant is being falsely implicated. In fact the brother of the informant is the aggressor against whom already the offence was registered by the father of the applicant in respect of an incident which had taken place on 09.02.2021 at 18:00 hours regarding which the FIR was lodged on

11.02.2021 at 00:08 hours, *inter alia* for the offence punishable under Section 3 (1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Just to give a counter blast to registration of such offence a concocted story is built up and a false FIR has been lodged. No injury was sustained by the informant which in the normal course ought to have been there if really the gold chain was snatched from around the neck that too weighing 15 gms. He would further point out that the informant has named four persons to be the witnesses to the incident but two of them have flatly denied to have witnessed the incident. If such is the state of affairs, when there is material to reveal that the applicant is being falsely implicated with the concocted version the applicant may be granted anticipatory bail more so when there are no criminal antecedents.

4. The learned APP duly assisted by the learned advocate for the original informant strongly opposes the Application. She submits that the offence is serious. In fact registration of earlier crime would provide sufficient motive for the applicant to indulge in the act being attributed to him. At least there are couple of independent witnesses to the incident. The gold chain is to be recovered which cannot happen without resorting to custodial interrogation of the applicant. The Application be rejected.

5. I have carefully gone through papers of the investigation. As is rightly pointed out by the learned advocate for the applicant, the present FIR has been lodged at a later point of time that too belatedly. Father of the applicant had already filed an FIR on the basis of which a serious offence under Atrocities Act is registered against the brother of the informant. It is only thereafter that the present FIR seems to have been registered that too belatedly. As can be seen, if the incident had taken place on 10.02.2021 at 13:00 hours, there is no plausible explanation coming forth as to why the FIR was lodged on 11.02.2021 at 2:12 hours.

6. Be that as it may, there is every room to believe that the FIR has been lodged as an after thought.

7. True it is that there are couple of witnesses who have stated to

have witnessed the incident as narrated in the FIR. However, simultaneously, one cannot ignore the fact that couple of other persons who were also cited as witnesses in the FIR are not supporting the prosecution as can be seen from the report submitted by the concerned Investigating Officer before the learned Magistrate.

8. Though the informant submits that he had sustained some injury, no injury certificate is available to be seen.

9. Again if at all a gold chain weighing 15 gms was snatched from around the neck of the informant, there could have been some injury caused in the process, to the neck region. However, there is no medical evidence.

10. Considering all the aforementioned facts and circumstances, in my considered view this is a fit case where applicant deserves to be granted anticipatory bail.

11. The Application is allowed. In the event of arrest of the applicant in connection with Crime No.33/2021 registered with Biloli Police Station, District Nanded for the offence punishable under Section 394, 452, 294 and 506 of the Indian Penal Code, he shall be released on bail on his executing personal recognizance for an amount of Rs.20,000/- and furnishing a solvent surety in the like amount subject to following conditions:

- a) The applicant shall attend the concerned Police Station on two constitutive Mondays starting from 12.04.2021 between 10.00 am to 1.00 pm and shall cooperate the Investigating Officer.
- b) The applicant shall not tamper the evidence or influence the witnesses in any manner.

(MANGESH S. PATIL, J.)