

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.196 OF 2021

1. Ravi s/o Rajendra Shewale
 2. Bandu s/o Balbhim Irkar
 3. Satish s/o Aba Dukare
 4. Mayur s/o Shahaji Dukare
- ... Applicants

Versus

The State of Maharashtra

... Respondent

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Mr. R. R. Karpe, Advocate for applicants.
Mr. N. T. Bhagat, APP for respondent – State.

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WITH
CRIMINAL APPLICATION NO.596 OF 2021
IN
BAIL APPLICATION NO.196 OF 2021

1. Shahaji s/o Pandurang Devkar
 2. Satish s/o Dhanraj Devkar
- ... Applicants

Versus

1. Ravi s/o Rajendra Shewale
 2. Bandu s/o Balbhim Irkar
 3. Satish s/o Aba Dukare
 4. Mayur s/o Shahaji Dukare
 5. State of Maharashtra
- ... Respondents

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Mr. A. D. Shinde, Advocate for applicants.
Mr. R. R. Karpe, Advocate for respondent Nos.1 to 4.
Mr. N. T. Bhagat, APP for respondent No.5 – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 12th March, 2021

ORDER :-

. Present applicants have been arrested in connection with Crime No.41 of 2021 dated 16.01.2021 registered with Karjat Police Station, District Ahmednagar for the offences punishable under Sections 307, 395, 332, 325, 506, 323 of Indian Penal Code. They have filed present application for bail under Section 439 of the Code of Criminal Procedure. Their names have been mentioned at Serial Nos.4, 14, 17 and 19 in the FIR.

2. Heard learned Advocate Mr. R. R. Karpe for applicants and learned APP Mr. N. T. Bhagat for the respondent – State.

3. It has been submitted on behalf of the applicants that perusal of the FIR would show that no specific role has been attributed to the present applicants. It has been submitted that after the voting in Grampanchayat Election was over on 15.01.2021, the informant, his son, one Satish Dhanraj Devkar and the police personnel Vicky Dehankar as well as driver of the informant were taking dinner at about 9.00 p.m. on Karjat-Rashin Road in Hotel Laxminandan, at that time, present applicants along with 75 to 80 persons came. They had taken photographs of the informant and others and thereafter, it is stated that they had started assaulting the informant. One Harshad Shewale was having *Gupti*, but then he says that the accused persons have assaulted

him and others by kicks and fist blows. Thereafter, he says that somebody amongst them had taken his gold chain and mobile forcibly. According to him, all this has been done with an intention to commit his murder. The learned Advocate for the applicants submits that the contents of the FIR are concocted and, in fact, the real incident was different. For that purpose, cross-complaint has been lodged by one Ravindra Rajendra Shewale, which has been registered as Crime No.43 of 2021 on the same day with the same Police Station and it is against the informant and others. So also, it is stated that the prosecution has been lodged against the informant on the report lodged by Police Constable Amit Barde posted at Karjat Police Station, Ahmednagar as Crime No.42 of 2021 for the offences punishable under Sections 171-C, 171-F of Indian Penal Code and Sections 68 and 140 of the Maharashtra Police Act. The applicants have been arrested on 17.01.2021 and now the substantial part of the investigation is over. Their further physical custody is not required and, therefore, they be released on bail.

4. Per contra, learned APP well assisted by learned Advocate Mr. A. D. Shinde for the informant strongly opposed the application and submitted that a huge mob had attacked the informant and his associates and those other accused persons were instigated by the present applicants. Thereafter, the present applicants have lodged a

false report. Their custody is still required and in view of the cross complaints, possibility of similar offence in future cannot be ruled out. It was also pointed out by the learned APP that the learned Additional Sessions Judge had gone through the CCTV footage of the hotel, where the incident had taken place and he had made certain observations regarding the presence of the present applicants. It is further submitted that the recovery of the lost articles is yet to be made and, therefore, the physical custody is required.

5. At the outset, it can be seen that the FIR has been lodged by one Shahaji Pandurang Devkar on 15.01.2021, however, it appears to have been registered at about 1.23 a.m. on 16.01.2021. It has been contended that the incident has taken place at about 9.00 p.m. in Laxminandan Hotel where the informant and others had stopped to take dinner. When it was specifically asked as to why the police person was taking dinner along with the informant, it was informed to this Court that on the application filed by the informant to the Police Station in-charge, he was granted police protection for a day and, therefore, the said police person was along with the informant. Thereafter, it was also asked to learned APP as to whether the necessary charges for giving police protection to the informant were collected from the informant. He has informed, after taking instructions from the necessary authority that

such payment has not been made by the informant. Thus, it is to be noted that in spite of presence of the police person, who was given for the protection of the informant, it is stated that the incident has taken place and the informant after naming 26 persons has stated that their were more 50 to 75 persons. His FIR is giving a picture that those about 76 to 99 persons had allegedly assaulted the informant and others, who were along with him. The FIR does not say in specific words that whether the police person, who was along with the informant, had received any kind of injury or not. Further, the FIR also says that though co-accused Harshad Shewale was having *Gupti*, the FIR doesn't say that he had used it for causing injury to anybody. He was consistent in saying that they were assaulted by kicks and fist blows. The police papers show that the informant has received only simple injuries. When alleged weapon was with co-accused, it cannot be attributed to the present applicants and as regards the snatching of gold chain and mobile phone is concerned, the informant says that somebody has done the act. Under such circumstance, further physical custody of the present applicants is not required.

6. As regards the FIR that is lodged by present applicant No.1 against the informant and others is concerned, he gives FIR against nine named persons and in fact, it is lodged after the present FIR. So also,

the FIR that is lodged by Police Constable Amit Barde i.e. Crime No.42 of 2021 is also subsequent to the present FIR. Interesting point to be noted is that the said Police Constable has lodged report against the present informant and others. It is stated that the present informant had brought 16 bouncers from Pune to influence the Grampanchayat Elections. Definitely, the incident appears to have taken place due to the Grampanchayat Elections. Under such circumstance, now since 17.01.2021 when the applicants were in jail, they deserve to be released on bail, however, with stringent conditions. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) Criminal Application No.596 of 2021 for assist to PP stands allowed and disposed of.
- III) Applicants viz., (i) Ravi s/o Rajendra Shewale, (ii) Bandu s/o Balbhim Irkar, (iii) Satish s/o Aba Dukare and (iv) Mayur s/o Shahaji Dukare, who have been arrested in connection with Crime No.41 of 2021 dated 16.01.2021 registered with Karjat Police Station, District Ahmednagar for the offences punishable under Sections 307, 395, 332, 325, 506, 323 of Indian Penal Code, be

released on P. R. Bond of Rs.30,000/- with two sureties of Rs.15,000/- each.

IV) Applicants to attend the concerned Police Station on every Monday and Thursday between 10.00 a.m. to 2.00 p.m.

V) They shall not tamper with the evidence of the prosecution in any manner.

VI) They shall not indulge in any criminal activity.

VII) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]

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