

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

ANTICIPATORY BAIL APPLICATION NO. 468 OF 2021

1. Sachin @ Balu Rohidas Tangade
Age: 32 years, Occu.; Agri.,
R/o Jamgaon, Tq. Ashti, Dist. Beed

2. Sandip Kedarsingh Pardeshi
Age: 25 years, Occu.: Labour,
R/o Murshadpur, Tq. Ashti,
Dist. Beed

..APPLICANTS

VERSUS

State of Maharashtra
Through Police Station Officer
Ambhora Police Station, Tq. Ashti,
Dist. Beed

..RESPONDENT

....

Mr. S.E. Shekade, Advocate for applicants
Mr. K.N. Lokhande, A.P.P. for respondent - State

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CORAM : R.G. AVACHAT, J.
RESERVED ON : 28th MAY, 2021
PRONOUNCED ON : 03rd JUNE, 2021

PER COURT :

1. Heard. Perused First Information Report ("F.I.R." for short) and related papers.

2. This is an application under Section 438 of Code of Criminal Procedure. The applicants claim to have reasonable apprehension of being arrested in connection with Crime No. 35 of 2021 registered at Ambhora

Police Station, Dist. Beed for the offence punishable under Section 394 read with Section 34 of the Indian Penal Code.

3. The F.I.R. has been lodged by one Shaikh Ashfaq Shaikh Isak on 18th February, 2021. It is averred in F.I.R. that the informant, alongwith his friend Ahiya Sayyed Zakeria, was on way to Ahmednagar in Toyota Etios car. While they were negotiating Waghluj *ghat*, one Hyundai Assent car overtook their car and blocked their way. Four unknown persons alighted from the said car. Those four persons assaulted one Shaikh Pasha and Shaikh Hamid, who were travelling in Breeza car. They assaulted the informant's friend Ahiya Sayyed Zakeria. One of those four assailants was wearing read T shirt. He forcibly removed Rs.28,000/- from the pocket of Shaikh Pasha. Since passing by vehicles stopped to see what the matter was, the accused fled in their car. The informant immediately lodged F.I.R.

4. Learned A.P.P. would submit that the offence is serious one. The stolen amount is yet to be recovered. Applicant No. 1 – Sachin @ Balu Tangde has criminal antecedent. He, therefore, urged for rejection of the application.

5. The F.I.R. has been lodged against four unknown persons. No description has been given of any of the culprits in the F.I.R. Involvement of the applicants is said to have been surfaced during interrogation of the

arrested accused. Admittedly, three of the four accused were arrested and released on bail as well. It appears that no test identification parade of the arrested accused was held. Reading of the statements on record would indicate that it was the consistent case that the culprits were four in number. It is not known as to how the number of culprits became five. From the averments in F.I.R. and the statements on record it appears that the culprits had assaulted and beat-up the informant's friend and two others. It is only one of those four, who allegedly removed Rs.28,000/- from the pocket of Shaikh Pasha. Had the culprits really intended to do robbery, all of them would have robbed the victims of whatever amount or articles they had with them. It may, therefore, sound that the alleged act of relieving Shaikh Pasha of Rs.28,000/- is an independent act of one of the culprits.

6. Be that as it may, F.I.R. has been lodged against unknown persons. The description of culprits has not been given in F.I.R. When it was the consistent case that the culprits were four in number, suddenly there is an addition of one more culprit. The arrested three accused have already been granted bail. Their test identification parade has not been held. There is no slightest material, except statement of co-accused, to indicate involvement of the applicants in the alleged offence. Although Applicant No.1 – Sachin @ Balu Tangde has criminal antecedent, it appears that last offence he is said to have committed dates back to year 2014. No offence of robbery or theft has

ever been registered against him. Since there being no slightest of material which could be converted into admissible piece of evidence to indicate the involvement of the applicants in the alleged offence, I am inclined to grant them bail. Hence, the following order :-

ORDER

- (I) Anticipatory bail application is allowed.
- (II) In the event of arrest of the applicants in connection with Crime No. 35 of 2021 registered at Ambhora Police Station, Dist. Beed for the offence punishable under Section 394 read with Section 34 of the Indian Penal Code, they be released on executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each, with surety in the like amount.
- (III) They shall appear before the investigating officer, as and when required for the investigating purpose.
- (IV) They shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)