

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 853 OF 2021

ANAND KAILAS DHAS
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. R.R. Karpe, Advocate for the applicant,
Mr. S.D. Ghayal, APP for the respondent.

With

ANTICIPATORY BAIL APPLICATION NO. 853 OF 2021

NAVNATH BAJIRAO DHAS
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. R.R. Karpe, Advocate for the applicant,
Mr. S.D. Ghayal, APP for the respondent.

CORAM : V.G. BISHT, J.

DATE : 13th August.2021.

PER COURT:

1] These are applications under Section 438 of Cr.P.C. preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No.0262 of 2021, registered with Police Station, Benwandi, Dist. Ahmednagar for the offences punishable under Sections 143, 147, 148, 452, 327, 354(B), 323, 504, 506 of IPC.

2] On account of on-going land dispute in a civil court, on 23.6.2021, at about 6.00 a.m., while the informant alongwith other family members was present in her house, her distant relatives, namely,

Atmaram Bajirao Dhas, Navnath Bajirao Dhas (applicant), Devraj Atmaram Dhas, Anand Kailas Dhas (applicant), Bajirao Babu Dhas, Savita Atmaram Dhas, Subhadra Atmaram Dhas and Pushpa Kailas Dhas, assembled in front of her house and started abusing her. The applicants entered into her house, caught hold of her hand and tore her blouse. Even, they forcibly snatched Mangalsutra.

3] Mr. Karpe, learned counsel for the applicant, invited my attention to the FIR No. 258 of 2021 filed by applicant Savita Atmaram Dhas against the members of informant party on 23.6.2021, at about 15.06 P.M., arising out of the same incident. According to learned counsel, the present FIR No. 262 of 2021, came to be filed at about 1.43 A.M. on 23.6.2021. Thus, according to learned counsel, their FIR was first in point of time and as a counter-blast to the said FIR, the present informant deliberately and identically filed the complaint. The learned counsel next submitted that there is mis-application of Section 327 of IPC, inasmuch as, there was no voluntary act of causing hurt so as to extort property or valuable security. The whole alleged incident should be looked in the backdrop of the pendency of the civil dispute between the parties and thus, it would be clear that the present applicants are falsely implicated.

4] Mr, S.D. Ghayal, learned APP, on the other hand, submitted that there is no delay in lodging the FIR. Not only the applicants used criminal force against the informant but also snatched Mangalsutra of the informant. The respective roles of the applicants have been clearly specified and this being so, the application should not be entertained and needs to be rejected.

5] On going through both the FIRs, I find substance in the argument of the learned counsel for the applicant that their FIR was filed first in point of time arising out of the same incident and what is interesting to note is that the contents of their FIR are identically reflected in the FIR filed by the present informant. One can also not be oblivious of the fact that a civil dispute is going on between the parties. As far as the applicability of Section 327 is concerned, this Court, prima-facie, has its doubts.

6] Thus, having regard to the facts and circumstances of the case, the present application needs to be allowed with certain conditions. Hence, I pass the following order.

: O R D E R :

[I] In the event of arrest of the applicants in connection with Crime No. 0262 of 2021, registered with Police Station, Benwandi, Dist. Ahmednagar for the offences punishable under Sections 143, 147, 148, 452, 327, 354(B), 323, 504, 506 of IPC., the applicants be enlarged on bail on his furnishing PR Bond in the sum of Rs. 20,000/- each, with one or two sureties in the like amount.

[II] The applicants shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.

[III] They shall not tamper with the evidence.

7] The application stands disposed of in aforesaid terms.

**[V.G. BISHT]
JUDGE.**

grt/-