

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1208 OF 2021

1.	Mahadu Babarao Dhonde	
2.	Shubham Dhyanoba Ghodke	
3.	Nagesh Shivaji Machundare	
4.	Kapil Gajanan Bhalke	
5.	Rajkumar Balaji Pillole	Applicants
Versus		
	The State of Maharashtra.	Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.1185 OF 2021

1.	Hanumant Balwant Landge	
2.	Suryakant Sambhaji Anerao	
3.	Govind Uttamrao Anerao	Applicants
Versus		
	The State of Maharashtra.	Respondent

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Ms. P.S. Talekar, Advocate for the applicants.
Mr. A.S. Shinde, A.P.P. for respondent – State.
Mr. Anand Deshmukh, Advocate for complainant (assist to PP).

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CORAM : **PRAKASH D. NAIK, J.**

DATE : 10-12-2021.

ORDER :

1. Apprehending arrest in Crime No. 390/2021 registered with Ahmedpur Police Station, District Latur, the applicants have preferred these applications for pre-arrest bail. Crime No. 390/2021

was registered on 1st September 2021 at the instance of Shivanand Uddhavrao Haibatpure for the offences punishable under Sections 327, 324, 323, 143, 147, 149, 504, 506, 427, 120-B of the Indian Penal Code and under Section 135 of the Maharashtra Police Act.

2. The case of the prosecution is that, on 1st September 2021, the informant visited Bhakti Sthal at Ahmedpur to pay homage on the occasion of death anniversary of Shri Shivling Shivacharya Maharaj. The death anniversary programme was over at 2.45 p.m. Informant, Vishwanath Morge and Laxmanappa Mukde were proceeding towards Udgir by vehicle. The informant was intercepted by accused near village Mahadev Wadi. Mahadeo Dhonde, Shubham Ghodke, Nagesh Machundre, Hanumant Landge, Suryakant Anekar, Kapil Bhalke, Govind Anerao, Rajkumar Malwade and two / three other persons reached the spot. They approached towards the vehicle of the informant and told him to come out of the car. They threatened the informant they abused him in filthy language. Informant did not open the door of the vehicle. One of the person snatched key of the vehicle and attempted to pull the informant from the car by holding his collar. They opened the door of the car and assaulted the informant with fist and kicks. Shubham Ghodke assaulted the informant with stick. One of the person recorded video of the incident. Mahadeo Dhonde caught shirt collar of the informant and snatched gold locket valued Rs. 1,35,000/-. Vishwanath Morge and Laxman Mukde tried to intervene in the quarrel. They were assaulted with fist and kicks. Nagesh

Machundre snatched mobile phone of Vihwanath Morge. Kapil Bhalke snatched mobile phone of Laxman Mukde. Mahadeo Dhonde told Shubham Ghodke to snatch the mobile phone of informant. Shubham Ghodke assaulted the informant with stick on his head and snatched his cell phone. Accused assaulted the informant, Vishwanath Morge, Laxman Mukde. Other also caused damage to the vehicle to the tune of Rs. 50,000/-. Quarrel was settled by Janardan Bhure and Amol Shivpuje. Mhadeo Dhonde threatened the informant that if he will visit the devotional place, he would kill him.

3. Applicants in ABA No. 1208 of 2021 preferred application for anticipatory bail before the Sessions Court which was rejected by order dated 30th September 2021. The applicants in ABA No. 1185 of 2021 had also preferred application before the Sessions Court at Ahmedpur. The application was rejected by order dated 22nd September 2021.

4. Learned Advocate for the applicants submitted that Rashtrasant Sadguru Dr. Shivling Shivacharya Maharaj Bhakti Sthal is a registered Trust. Rashtrasant Sadguru Dr. Shivling Shivacharya Maharaj has expired on 01.09.2020. As per his Will Deed, Kumar Rajshekhar Guru was declared as successor to Bhakti Sthal. Since Kumar Rajshekhar Guru is minor, Gururaj Manmath Swami was declared as his guardian. Entries were effected by Deputy Charity Commissioner pursuant to order dated 25.06.2021 on Inquiry Application No. 803 of 2020. Successor of Bhakti Sthal

had decided to organize religious ceremony to mark the first death anniversary of Rashtrasant Sadguru Dr. Shivling Shivacharya Maharaj. Pamphlets were distributed. There is dispute between two groups regarding the management of Bhakti Sthal. The rival group consisting of the informant had attempted to take away the record and proceedings of Bhakti Sthal. Complaints were preferred by Uttaradhikari / Successor of Bhakti Sthal alleging that the informant and others are intending to disturb religious feeling. Notice dated 01.09.2021 was issued by Ahmedpur police station to informant under Section 149 of the Code of Criminal Procedure (for short "Cr.P.C."). The applicants support functioning of Bhakti Sthal at Ahmedpur. The office bearers of Shiv Sangathna are followers of Rashtrasant Sadguru Dr. Shivling Shivacharya Maharaj and they have accepted Kumar Rajshekhar Guru and Gururaj Manmath Swami as successors of Bhakti Sthal. The informant is office bearer of Bahujan Vanchit Aghadi. He is political rival of applicants. Informant has no nexus with Bhakti Sthal. Informant files complaints in order to settle personal scores. Since notice was issued under Section 149 of Cr.P.C., the informant had lodged false F.I.R. against the applicants and others. The contents of F.I.R. are concocted. It is registered at the behest of rival group. Applicants are falsely implicated in the crime. There is no evidence to suggest that they were involved in the crime. The F.I.R. was registered out of vengeance. Informant has differences with the applicants. The allegation of snatching gold chain is baseless and without any proof.

The offences are not made out against the applicants. Custodial interrogation of the applicants is not necessary.

5. Learned A.P.P. and learned Counsel for the complainant submitted that all the applicants are involved in the crime. Accused are habitual criminals. Several offences are registered against them. Learned Sessions Judge, while rejecting the application, has given reasons and opined that custodial interrogation is necessary. Specific role has been attributed to the applicants. The offence is of serious nature. Accused have formed unlawful assembly and in prosecution of common object, assaulted the informant and others. They snatched gold locket worth Rs.1,35,000/- and mobile phones of the witnesses. Custody is necessary to recover the gold locket and weapon used in crime. Applicant Mahadu Babarao Dhonde has several criminal antecedents. He was convicted for the offence punishable under Section 302 of I.P.C. He is also convicted for the offence punishable under Section 323 of I.P.C. Several other cases are registered against him.

6. It appears that there is dispute between the parties on account of successor of Dr. Shivling Shivacharya Maharaj. The order passed by learned Sessions Judge refers to the said fact. It is also observed that litigation was pending and decided by the Charity Commissioner in respect of successor of Dr. Shivling Shivacharya Maharaj. Kumar Rajshekhar Gururaj is appointed and declared as successor of Dr. Shivling Shivacharya Maharaj as per his Will. The Change Report is approved and sanctioned by Assistant Charity

Commissioner, Latur. Thus, there is strong animosity between the parties. It also appears that notice under Section 149 of Cr.P.C. was issued against the informant on 01.09.2021. The applicant Kapil Bhalke filed affidavit dated 25th October 2021 to place on record certain documents and facts. In the said affidavit, it was stated that the complainant had filed application seeking permission to assist Public Prosecutor. In the said application it was claimed that Mahadu Dhonde is habitual criminal. The allegations are made to prejudice the Court. Informant has produced list of cases registered against Mahadu Dhonde. The said applicant is acquitted in all the cases except one. He is convicted in Sessions Case No. 106 of 1994. The appeal challenging the said judgment is pending before the High Court. In all other cases referred to by the informant, he has been acquitted. Copies of the judgment are annexed to the application. Interim protection was granted by this Court to applicant on 14.10.2021. Informant had conspired to cause injury to Mahadu Dhonde. He was assaulted by certain disgruntled elements on directions of informant intimidating him not to enter the Bhakti Sthal. F.I.R. is registered against the said person on 19.10.2021 with Sonkhed Police Station, District Nanded for the offences punishable under Sections 307, 326, 324, 143, 147, 148, 149, 504 and 506 of I.P.C. Mahadu Dhonde sustained serious injuries and he was hospitalized in ICU Ward of Yashosai Orthopedic Hospital, New Kautha, Nanded. The applicants have attended the police station and shown their willingness to co-operate with the investigation.

Statements of some of the applicants are recorded by the police.

7. Thus, from the aforesaid aspects, it is apparent that there is dispute between two groups. Both sides are at logger head. In the light of the aforesaid factual aspects of the matter, the applicants need not be subjected to custodial interrogation. Investigation can proceed without subjecting them to custody. Hence, I pass the following order.

ORDER

- (i) Anticipatory Bail Application Nos. 1185 of 2021 and 1208 of 2021 are allowed.
- (ii) In the event of arrest of the applicants in with Crime No. 390 of 2021 registered with Ahmedpur Police Station, District Latur, the applicants be released on bail on executing P.R. bond in the sum of Rs.25,000/- each, with one or more sureties in the like amount.
- (iii) The applicants shall report the Investigating Officer on 20th, 21st, and 22nd December 2021 between 11.00 a.m. and 1.00 noon and thereafter as and when called for, till filing of the charge-sheet.
- (iv) The applicants shall not tamper with the evidence.
- (v) Anticipatory Bail Applications stand disposed of.

(PRAKASH D. NAIK, J.)