

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

ANTICIPATORY BAIL APPLICATION NO. 1298 OF 2021

Devidas Bhagwan Hatkar ... **Applicant**
Age 36 years, Occu: Agri.
R/o Samtanagar, Bhokar,
Tq. Bhokar, Dist. Nanded.

VERSUS

The State of Maharashtra, ... **Respondent**
Through P.I., Bhokar Police Station,
Bhokar, Dist. Nanded. Crime No.293/2021

WITH
ANTICIPATORY BAIL APPLICATION NO. 1392 OF 2021

1. Vatchala Bhagwan Hatkar ... **Applicants**
Age 61 years, Occu: Household.
R/o Samtanagar, Bhokar,
Tq. Bhokar, Dist. Nanded.
2. Rani Gautam Sonkamble
Age 32 yeas, Occu: Household
R/o Mahatma Phule Nagar,
Bhokar, Tq. Bhokar, Dist. Nanded.

VERSUS

The State of Maharashtra, ... **Respondent**
Through P.I., Bhokar Police Station,
Bhokar, Dist. Nanded. Crime No.293/2021

Ms. S. A. Kale, Advocate for the applicants,
Mr. A. S. Shinde, A.P.P. for the State.

CORAM : PRAKASH D. NAIK, J.

DATE : 30th November, 2021

ORDER:

1. Learned APP waives service of notice for respondent State in ABA No.1392 of 2021. ABA No.1298/2021 was heard on 28th October, 2021 and interim protection was granted to the applicant therein.

2. Crime No. 293 of 2021 has been registered with Bhokar Police station, Taluka Bhokar, District Nanded for the offence under section 436, 427 r/w 34 of Indian Penal Code. The FIR is registered on 18.8.2021.

3. The case of prosecution is that some unknown persons had destroyed xerox center of the complainant and her house was set on fire. The applicant has not been named in the FIR. It was lodged against unknown person.

4. It appears that CCTV footage was recovered from the place of incident. The involvements of the applicants were disclosed subsequently.

5. The learned counsel for the applicants submitted that the applicants have been falsely implicated on account of animosity between the informant and applicants. The applicant Devidas had lodged complaint against son of the informant in the past, vide Crime No. 0271 of 2021 registered with Bhokar police station for the offences under section 279, 304A and 139 of MV Act.

6. Learned APP submitted that during course of investigation, statements of witnesses were recorded. The applicants are named in those statements as persons who had participated in the offence. There are two incidents. First incident relates to pelting of stones on the Xerox Copy Centre and causing damage to the shop premises and second incident relates to setting house of the complainant on fire by pouring kerosene. The spot Panchanama indicates the nature of damage caused to the shop and residential premises of the complainant. Supplementary statement of the complainant

was recorded in which she has named the persons who set the house on fire. The statement also attributes role to the applicants. Statement of C.A. opines presence of residues of kerosene at the spot of incident. Hence, there is evidence against the applicants having participated in the crime. Offence is of serious nature. Complainant was in the house at the time of incident. She was rescued by neighbours. Huge loss is caused to the properties. Statement of the person who had rescued the complainant is recorded. The accident in question had occurred in the month of July, 2021 and the incident which is subject matter of the present FIR had occurred in August, 2021. There is no motive for complainant to falsely implicate the accused. The CDR location show that accused were in the vicinity of the place of offence.

7. Learned Advocate for the applicants submits that the accused are from area of place of incident and CDR location is bound to be common.

8. I have perused the investigation papers. The first information was registered against unknown persons. The informant in her statement stated that some unknown persons had caused damage to the shop premises and residence which was set on fire. Statement of one of the witness was recorded on 26th August, 2021. According to him, he is working as servant in the Xerox Centre of the complainant. He stated that one person had caused damage to the shop on 17th August, 2021. Subsequently he learnt that name of the said person is Devidas Hatkar. The said witness does not know the name of the present applicant. His statement is recorded on 26.08.2021. Statement of another witness Nageshwar Waghmare was also recorded on the same day and he has stated that some persons had caused damage to the Xerox

Centre. He did not disclose name of the applicant. Statement of another witness Datta Molekar was recorded on 05.09.2021. According to him he is eye witness to the incident. According to him, applicants entered into the premises and set the house on fire by pouring kerosene. Police arrived at the spot of incident. The house caught fire. The statement was recorded on 5th September, 2021. According to him, the police had arrived at the spot of incident. However, he did not disclose to them name of the applicants. Statement of other witnesses are similar. Supplementary statement of the complainant was recorded on 9th November, 2021. In the said statement she has named the applicants as persons who had set her house on fire. In the first information report, she did not disclose name of any person. Reference was made to unknown person. Statement appears to have been recorded after the statements of earlier witnesses and version is after thought. as stated above were recorded by the I.O.

9. Applicant in ABA NO. 1392/2021 are ladies aged about 61 years and 32 years. Considering the nature of offence, the applicants need not be subjected to custodial interrogation. Case for grant of relief is made out.

10. Hence, I pass the following order :-

ORDER

- i. Anticipatory Bail Application Nos. 1298 of 2021 and 1392 of 2021 are allowed;

- ii. In the event of arrest of the applicants in Crime No. 293 of 2021 registered with Bhokar Police station, Taluka Bhokar, Dist. Nanded, the applicants be released on bail on executing PR bond in the sum of Rs. 20,000/- each, with one or more sureties in the like amount;
- iii. The applicants shall report the investigating officer on 8th, 9th and 10th December, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for till filing of the charge sheet.
- iv. Anticipatory Bail Applications stand disposed of accordingly.

(PRAKASH D. NAIK, J.)

JPC