

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

[1] ANTICIPATORY BAIL APPLICATION NO.783 OF 2021

1. Santosh Balu Tribhuvan, &
2. Ramkishan Nagrao Gaikwad. Applicants
Versus
The State of Maharashtra Respondent

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WITH

[2] ANTICIPATORY BAIL APPLICATION NO.541 OF 2021

Pranit Gajanan Pedhavi Applicant
Versus
State of Maharashtra Respondent

.....
WITH

[3] CRIMINAL BAIL APPLICATION NO.276 OF 2021

Prafulla Prabhakar Kharade Applicant
Versus
The State of Maharashtra Respondent

.....
WITH

[4] CRIMINAL BAIL APPLICATION NO.1510 OF 2020

Deepak Tukaram Mahadik Applicant
Versus
The State of Maharashtra Respondent

Smt. Tamanna I. Shaikh, Advocate for the Applicants in ABA/783/2021 and BA/1510/2020.

Mr. Gaurav Parkar, Advocate for the Applicant in ABA/541/2021.

Mr. Sujay H. Gangal, Advocate for the Applicant in BA/276/2021.

Mr. S.H. Yadav, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 18th MARCH, 2021

P.C. :

1. In all these matters a common order is passed today because they arise out of the same investigation and the same offence. For the sake of convenience, all the Applicants are referred to by their names in this order.

2. Criminal Bail Application No.276/2021 is filed by Prafulla Kharade, Criminal Bail Application No.1510/2020 is filed by Deepak Mahadik, Anticipatory Bail Application No.783/2021 is filed by Santosh Tribhuvan & Ramkishan Gaikwad, and Anticipatory Bail Application No.541/2021 is filed by Pranit Pedhavi.

3. The Applicant-Deepak Mahadik was arrested on 14.7.2020 and the Applicant-Prafulla Kharade was arrested on 18.7.2020 and since they they are in custody. The charge-sheet is already filed against these two and insofar as they are concerned, the investigation is over. They are seeking bail in connection with C.R. No.46/2020 registered at Kolad Police Station, Raigad.

4. In Anticipatory Bail Applications, the Applicants-Santosh Tribhuvan, Ramkishan Gaikwad and Pranit Pedhavi are attached to Roha Police Station. The Applicants are seeking relief of anticipatory bail in their respective Applications in respect of C.R. No.46/2020 registered at Kolad Police Station, District-Raigad, dated 14.7.2020, under Sections 420, 384, 364-A read with 34 of the Indian Penal Code.

5. The FIR is lodged by one Shailesh Sakpal. His allegations unfold through his FIR lodged on 14.7.2020 and through his supplementary statement dated 20.7.2020. According to him, his friend Ganesh More told him that his

friend Applicant-Prafulla Kharade had 20 kg gold biscuits and he was selling that gold at the rate of Rs.40,000/- per tola. They decided to buy the gold. They contacted him. They met Prafulla Kharade at Kolad. The Applicant-Prafulla took Ganesh to Mangaon. He had taken Rs.2 Lakhs given by the informant and his friend Ganesh, but, he returned with 20 grams gold. The informant wanted 50 grams of gold, and he refused to accept 20 gms gold. The Applicant-Prafulla Kharade then came back with the Applicant-Deepak Mahadik, who in turn told that they knew one Mahesh at Thane who would give them 30 grams of gold. He contacted Mahesh on mobile phone. Some conversation took place. The informant was given a telephone number. Then the informant took his 20 grams of gold and Rs.1,20,000/- and went to Thane. There he tried to contact the aforementioned Mahesh, but, he could not be contacted. On 3.7.2020 as per the directions of the Applicant-Prafulla Kharade they went to Kolad. That time, the Applicant-Prafulla Kharade took away Rs.60,000/- and 20 grams of gold. In the meantime, one person wearing rain-coat

came there and caught the Applicant Prafulla Kharade. He was accompanied by one more such person. They represented to the informant that they were police officers and Prafulla Kharade had 7 to 8 offences against him. They told the informant that if they wanted protection from arrest he would have to pay Rs.1 Lakh. In the supplementary statement, he has further stated that the informant was forced to sit in an “i-20” vehicle. The informant’s friend Ganesh was made to sit in a Duster vehicle. All of them were taken to a secluded spot where the persons, who made a representation that they were police officers, took away their belongings and amounts and after some time they were taken outside Roha police station. On these allegations, the FIR was lodged and supplementary statement was given by the Applicant.

6. Heard Smt. Tamanna Shaikh, learned Counsel Advocate for the Applicants-Santosh Tribhuvan, Ramkishan Gaikwad and Deepak Mahadik, Shri Gaurav Parkar, learned Counsel for the Applicant-Pranit Pedhavi, Shri Sujay Gangal, learned Counsel for the Applicant-Prafulla Kharade and Shri

S.H. Yadav, APP for the State.

7. Learned Counsel for the Applicant-Pranit Pedhavi submitted that he was actually on duty on that day and, therefore, he being present on the spot will not show that he has taken part in commission of the offence.

8. Learned Counsel for the Applicants Santosh Tribhuvan and Ramkishan Gaikwad submitted that the identity of the police officer is not established and, therefore, there is nothing to connect these Applicants with the present crime.

9. Learned Counsel for the Applicant-Deepak Mahadik submitted that he is already arrested on 14.7.2020 and in the supplementary statement there is no reference to this Deepak. Therefore, sufficient doubt is created about his presence.

10. Learned Counsel for the Applicant-Prafulla Kharade submitted that as can be seen from the entire narration, the main allegations are against the police officers.

The Applicant-Prafulla Kharade had not abducted the informant and, therefore, the allegations against him are of much lesser gravity.

11. Learned A.P.P. opposed all these Applications. He produced the statement given by the Applicant-Deepak Mahadik and the Applicant-Prafulla Kharade. Of course, these statements may not be admissible, but, for the purpose of consideration of anticipatory bail they can be looked into to find whether the investigating agency has sufficient material against the Applicants for effecting their arrest.

12. I have considered all these submissions. As far as the Applicants-Deepak Mahadik and Prafulla Kharade are concerned, as rightly submitted by learned Counsel for the Applicant-Prafulla, he had not abducted the informant. He had actually returned some part of gold. Therefore, *prima facie*, there is scope to believe that he has played a lesser role. He had induced the informant to part with his money and to come to Kolad. His role undoubtedly is mentioned by the informant, but, considering the fact that the charge-sheet is

already filed against him, no purpose would be served by keeping him behind bars till the entire duration of trial. The main allegation for commission of offence under Section 364-A of IPC is not attracted against him. Therefore, he can be granted bail.

13. As far as the Applicant-Deepak Mahadik is concerned, as rightly pointed out by learned Counsel for him that his name is not mentioned in the supplementary statement. This discrepancy has remained unexplained, but, the FIR does mention his role. But he has come on the scene subsequently after Prafulla Kharade had brought the informant at Kolad. The person named as “Mahesh” was a fictitious person and that number was given by other accused. However, apart from that, he has not taken further part in the offence. There is nothing to show that apart from the fact that cash of Rs.25,000/- each was recovered from the Applicants-Deepak Mahadik & Prafulla Kharade, they had benefitted substantially. Therefore, even Deepak Mahadik’s case can be considered for grant of bail.

14. As far as Anticipatory Bail Applications are concerned, the matter is quite serious. All these Applicants-Santosh Tribhuvan, Ramkishan Gaikwad and Pranit Pedhavi are attached to Roha police station. The statements of the Applicants-Deepak Mahadik and Prafulla Kharade show that all three police officers have played active role in the entire offence. The informant was taken away forcibly in a car. His friend was also taken in a different car. They were taken to a secluded place. There their cash and other articles were taken away. These are serious allegations against the police officers and for that purpose their custodial interrogation is necessary. In this view of the matter, no relief can be granted in the anticipatory bail applications.

15. Hence, the following order :

ORDER

- (i) Bail Application No.276/2021 is allowed. In connection with C.R. No.46/2020 registered with Kolad Police Station, District-Raigad, the Applicant-Prafulla

Prabhakar Kharade is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) Bail Application No.1510/2020 is allowed. In connection with C.R. No.46/2020 registered with Kolad Police Station, District-Raigad, the Applicant-Deepak Tukaram Mahadik is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(iii) Anticipatory Bail Applications No.783/2021 & 541/2021 in respect of Applicants-Santosh Tribhuvan, Ramkishan Gaikwad and Pranit Pedhavi stand rejected.

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signed by
Pradeepkumar
P. Deshmane
Date:
2021.03.20
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(SARANG V. KOTWAL, J.)

Deshmane (PS)