

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2720 OF 2021

CHANDA TANAJI MOHITE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

WITH

INTERIM APPLICATION NO.2992 OF 2021

IN

BAIL APPLICATION NO.2720 OF 2021

DHANANJAY GORAKNATH CHAVAN)...INTERVENOR

IN THE MATTER BETWEEN

CHANDA TANAJI MOHITE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

WITH

BAIL APPLICATION NO.2636 OF 2021

ATUL BAPURAO PAWAR)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

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WITH

INTERIM APPLICATION NO.2496 OF 2021
IN
BAIL APPLICATION NO.2636 OF 2021

DHANANJAY GORAKNATH CHAVAN)...INTERVENOR

IN THE MATTER BETWEEN

ATUL BAPURAO PAWAR)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Aniket Vagal, Advocate for the Applicant in B.A.No.2720 of 2021.

Mr.Abhaysingh Shinde, Advocate for the Intervenor in I.A.No/2992 of 2021 and I.A.No.2496 of 2021.

Mr.Ganesh Gole i/b. Mr.Ritesh Ratnam, Advocate for the Applicant in B.A.No.2636 of 2021.

Mr.H.J.Dedhia, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

RESERVED ON : 6th DECEMBER 2021
PRONOUNCED ON : 16th DECEMBER 2021

P.C. :

1 The present applications have been moved by the applicants under Section 439 of the Code of Criminal Procedure in Crime No.316 of 2020 registered with Police Station Vaduj, for offences punishable under Section 386, 458, 120(B), 170, 420, 323, 506, 34 of the Indian Penal Code (IPC).

2 The prosecution case in short is that the informant is owner of Prithviraj Milk Private Limited, Taluka Khatav, District Satara. On 14th May 2017, in between 1.00 a.m. to 4.00 a.m., accused Atul Bapurao Pawar (applicant in B.A.No.2636 of 2021), Chanda Tanaji Mohite (applicant in B.A.No.2720 of 2021) and Anant Hanmant Ranpise along with an unknown woman and 5 to 6 persons in collusion with each other, unauthorizedly entered into Prithviraj Milk Private Limited. Applicant Chanda Mohite pretended herself to be an Officer from Anti-Corruption Bureau whereas applicant Anant Ranpise as an Income Tax Officer. Rest

of the persons pretended themselves to be the officers from the Food and Drug Administration. They also put powder in the milk can and started video shooting alleging that they (informant and others) are engaged in adulteration of milk and that they would file a case against them. They also threatened to defame the informant, beat him and also threatened to kill and thereafter demanded ransom of Rs.1 crore. However, they settled the deal for Rs.11 lacs and also took a cheque in the sum of Rs.5 lacs drawn on Bank of India, Branch Waduj. They further demanded that in order to delete the video recording so recorded by them, the informant will have to shell out Rs.5 lacs towards ransom every year. The informant also paid Rs.10 lacs as on the date of lodging of the First Information Report (FIR). Since the informant had not paid Rs.5 lacs, applicant Atul Pawar flashed a news in respect of adulteration of milk on RTI News Network you tube channel. Even he threatened the informant. The informant, accordingly, lodged the report.

3 The intervention applications filed by the intervenor in both applications are allowed to the extent of assisting the learned APP in the matter and stand disposed off accordingly.

4 Mr.Ganesh Gole, learned counsel for the applicant in B.A.No.2636 of 2021, at the outset, assailed the FIR on the ground that the alleged FIR came to be filed after 3½ years of the alleged incident. According to the learned counsel, the applicant is an elected member of Panchayat Samiti and from time to time he had made many complaints against the informant. The learned counsel then invited my attention to those complaints. The learned counsel also invited my attention to the transcription of conversation between the informant and applicant under panchnama dated 5th October 2020 and according to the learned counsel there is no whisper of his name by any of them, in any manner. Except the alleged presence of applicant, there is nothing against him. Investigation is over and charge-sheet has been filed. There are no criminal antecedents and in such

circumstances, applicant deserves to be enlarged on bail, argued learned counsel.

5 Mr.Aniket Vagal, learned counsel for the applicant in B.A.No.2720 of 2021 submitted that the only incriminating evidence against the applicant is alleged discovery statement given by the applicant under Section 27 of the Indian Evidence Act whereby cash amount of Rs.25,000/- came to be seized at her instance. The learned counsel then adopted rest of the submissions advanced by Mr.Ganesh Gole.

6 Mr.Dedhia, learned APP assisted by Mr.Abhaysingh Shinde, learned counsel for the intervenor in both applications, first took me through the contents of FIR and invited my attention to the statement of witnesses, namely, Umesh Tukaram Chavan, working as Accountant with the informant and Dattatray Rajaram Khade, Driver of the informant. Besides, according to him there is CCTV footage showing the involvement of the applicant. Antecedents

are also there. Thus, for all these reasons, the application needs to be rejected, argued learned APP.

7 Perused the investigation papers. I have also gone through the statement of witnesses and as also the panchnama in respect of transcription of conversation between the informant and applicant Chanda Mohite.

8 First of all, what is disturbing is that the alleged incident took place on 14th May 2017 and the FIR came to be lodged on 4th October 2020. Although in the FIR it is alleged that the accused were blackmailing the informant and were extracting ransom of Rs.5 lacs every year and had also threatened to air the video recording of the informant's plant showing how the milk is being adulterated by the informant, but I have my own doubts about the justification given by the informant. There are reasons for that.

9 During the course of argument, the learned counsel for the applicant in B.A.No.2636 of 2021 invited my attention to various complaints made by the applicant from time to time to the concerned authority in respect of adulteration made by the informant in his milk factory. First such complaint is dated 10th February 2013 addressed by the applicant to Police Inspector, Waduj, Taluka Khatav, District Satara. In the said complaint, the applicant alleged about the death threats given by the informant to him on the ground that the applicant had complained about the adulteration of the milk. The next complaint is dated 12th November 2014 made by the applicant to the Member of Parliament, Satara District, complaining therein that despite making several complaints against the informant in respect of adulteration of milk, no action till date is taken by the concerned police station and therefore, necessary action be taken. Thus, these complaints admittedly were moved against the informant much before the lodging of the FIR in question.

10 I now come to Panchnama dated 5th October 2020 which is transcription of conversation between the informant and Chanda Mohite. There is absolutely no whisper against the applicant in B.A.No.2636 of 2021. Although the said conversation is between applicant Chanda Mohite and informant but then there is nothing to indicate that there was any exchange of words in respect of alleged ransom amount between them.

11 As against applicant Chanda Mohite, the only incriminating evidence is in the form of discovery statement recorded under Section 27 of the Indian Evidence Act on 4th October 2020 pursuant to which Rs.25,000/- came to be seized at her instance.

12 I have also gone through the statement of prosecution witness, namely, Umesh Tukaram Chavan and Dattatray Rajaram Khade. They are employees of the informant. I have already expressed my doubts about the belated filing of the FIR.

Therefore, their testimonies will have to be decided by the Court during the course of trial.

13 Although the learned APP has claimed the gathering of CCTV footage, but neither the copy of the same is given to the applicants nor it has been filed on record.

14 Above all, the offences are triable by Judicial Magistrate First Class. Investigation is over. Having regard to the material on record, in my considered opinion, no useful purpose would be served by keeping the applicants behind the bars.

15 In view of above, I am inclined to allow the applications. Hence, I pass the following order :

ORDER

- (i) Applicant – Chanda Tanaji Mohite (B.A.No.2720/2021) and applicant – Atul Bapurao Pawar (B.A.No.2636/2021) shall be released on bail in Crime No.316 of 2020 registered with Police Station Vaduj, on their executing PR.Bond in the

sum of Rs.25,000/- each and on furnishing one or two sureties in like amount, by each of them.

- (ii) The applicants shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the concerned police station twice in a month i.e. on first Monday and first Friday of every month, in between 11.00 a.m. to 1.00 p.m., till the completion of trial.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.

(vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)