

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2396 OF 2019

1) Udaysinh @ Sunil Sambhaji Gaikwad

2) Jaideep @ Tejas Jayaji Gaikwad Applicants

versus

The State of Maharashtra Respondent

WITH

INTERIM APPLICATION NO. 743 OF 2020

IN

ANTICIPATORY BAIL APPLICATION NO. 2396 OF 2019

Tushar Suryakant Nimbalkar ...Intervener

IN THE MATTER BETWEEN

Udaysinh @ Sunil Sambhaji Gaikwad & Anr. Applicants

versus

The State of Maharashtra Respondent

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Mr. Rupesh Zade, Advocate for Applicants.

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

None present for Intervener.

Mr. P. M. Bankar (A.S.I.), Walchandnagar Police Station, Pune.

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CORAM : SARANG V. KOTWAL, J.

DATE : 15th FEBRUARY, 2021

P.C. :

. The applicants are seeking anticipatory bail in

connection with C.R.No.405/2019 registered at Walchandnagar Police Station, Pune under Sections 327, 324, 323, 504 read with 34 of the Indian Penal Code. Subsequently, Section 326 of I.P.C. was added.

2. Heard Mr. Rupesh Zade, learned Counsel for applicants and Mr. S. H. Yadav, learned APP for the State/Respondent.

3. The F.I.R is lodged by one Suryakant Nimbalkar on 21st September 2019 in respect of incident which had occurred on 17th September 2019. He has stated that, on that day at around 6.00 p.m., he was traveling on Sansar to Kurvali Tawashi Road. At about 8.00 p.m., he saw that the accused Maloji alias Prakash, Jayaji alias Anil and both the present applicants were digging for at the roadside lying pipeline. There was some dispute on a small issue between these four and the informant. In that quarrel, the accused Maloji alias Prakash gave a blow with sickle on his head. Jayaji alias Anil gave blow with iron fighter on informant's ear and face. The applicant Udaysinh gave a blow with iron rod on his neck and the applicant Jaideep gave a blow with iron rod on his back. Apart from that, there are allegations that the accused removed the

informant's gold chain worth Rs.84,000/-. On this allegations, the F.I.R is lodged.

5. Shri Zade, submitted that the F.I.R is lodged belatedly on 21st September 2019, though the incident had occurred on 17th September 2019. Delay is unexplained.

6. He submitted that this delay shows that there was an after thought and clear attempt is made to implicate more number of accused in this case. He submitted that, in respect of the same incident, one of the accused Maloji himself had lodged his own F.I.R. vide C.R.No.399/2019 at the same Police Station under Sections 324, 504 and 506 of I.P.C.

7. Learned APP opposed this application. He produced investigation papers before me. He relied on the allegations made by the first informant. He submitted that the recovery of that gold chain is yet to be effected.

REASONS

8. As rightly submitted by the learned Counsel for the applicants, there is no explanation as to why the F.I.R. was lodged belatedly. I have perused the medical certificate. It appears that the

informant had suffered only one grievous injury on his ear causing loss of hearing. However, there are no injuries on neck and back attributed to both these applicants to that extent. The narration appears to be exaggerated.

9. The other two accused were arrested and were released on bail. There was no recovery of gold chain after their arrest and there was no clue offered by them.

10. The applicants are on interim protection since November 2019. Therefore, in this background, after lapse of a long period, there is no propriety in permitting custodial interrogation of the present applicants.

11. Hence, the following order.

ORDER

- (i) In the event of their arrest in connection with C.R.No.405/2019 registered at Walchandnagar Police Station, Pune, the applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each with one or two sureties each in the like amount.

- (ii) Application stands disposed of accordingly.
- (iii) With disposal of this application, nothing survives in the Intervention application. It is also disposed of.

(SARANG V. KOTWAL, J.)