

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

ANTICIPATORY BAIL APPLICATION NO.1928 OF 2019

Shahjahan Md. Husen Murshad & Ors. ...Applicants
V/s.
The State of Maharashtra ...Respondent

**WITH
INTERIM APPLICATION NO.304 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.1928 OF 2019**

Sameer A. Wahab Hakim ...Intervener

In the matter between :

Shahjahan Md. Husen Murshad & Ors. ...Applicants
V/s.
The State of Maharashtra ...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.1997 OF 2019**

A. Gaffar A. Sattar Murshad ...Applicant
V/s.
The State of Maharashtra ...Respondent

**WITH
INTERIM APPLICATION NO.1020 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.1997 OF 2019**

Sameer A. Wahab Hakim ...Intervener

In the matter between :

A. Gaffar A. Sattar Murshad ...Applicant
V/s.
The State of Maharashtra ...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1953 OF 2019**

A. Jabbar A. Sattar Murshad	...Applicant
V/s.	
The State of Maharashtra	...Respondent

Mr. Ujwal R. Agandsurve, Advocate for the Applicants in ABA/1997/2019 & ABA/1953/2019.

Mr. S. P. Rajepandare, Advocate for Intervener/Applicant in IA/1020/2019.

Mr. Y. M. Nakhawa, APP for Respondent (State).

Mr. A. N. Shaikh, PSI, Sadar Bazar Police Station, Solapur City.

**CORAM : A. S. GADKARI, J.
DATE : 21st AUGUST, 2021.**

PC. :

1. Heard Mr. Agandsurve, learned Advocate for the Applicants, Mr. Rajepandare, learned Advocate for the Intervener-First Informant and Mr. Nakhawa, learned APP for the State. Perused record of investigation.
2. By Orders dated 5th September 2019 passed in Anticipatory Bail Application No.1953 of 2019; Order dated 3rd September 2021 passed in Anticipatory Bail Application No.1928 of 2019 and Order dated 16th September 2021 passed in Anticipatory Bail Application No.1997 of 2019, the Applicants were granted interim relief.
3. Perusal of record indicates that, the first information report is lodged by Mr. Sameer Hakim. It is the prosecution case in brief that, on 7th August 2019, at about 9.45 a.m., the Applicants forcibly entered into

the shop of informant and assaulted him with fist and kick blows, chappals, sticks and iron rods. The Applicants alongwith co-accused Daud Murshad had committed robbery of Rs.95,240/-, a bracelet of gold metal from his hand, a laptop, printer and some documents pertaining to the business of informant. It is also alleged that, the Applicants caused damage to the CCTV Camera of the informant.

The record reveals that, the Applicant Smt. Shahjahan Md. Husen Murshad has also lodged a cross complaint against the informant herein i.e. Sameer V. Hakim bearing Crime No.638 of 2019 dated 8th August 2019, under Sections 354, 354-B, 327, 323, 504, 506 read with 34 of the Indian Penal Code.

It is thus clear that, there is a case and cross case lodged by the Applicant Smt. Shahjahan Md. Husen Murshad and informant Sameer V. Hakim against each other arising out of same incident.

4. As far as the present crime is concerned, the record of investigation reveals that, the co-accused Daud Murshad against whom the allegation of snatching of cash amount of Rs.95,240/- from drawer of the shop is made, was arrested by the Police and has now been released on regular bail.

The allegation of the informant that, a bracelet made up of gold metal was snatched by the Applicants namely Smt. Shahjahan, Smt. Bilkis,

Smt. Firoza is concerned, the record indicates that, no witness has stated that, the informant Sameer V. Hakim was infact wearing a bracelet made up of gold metal on the day and time of the incident. The next allegation of the informant that, the Applicants caused damage to the CCTV Camera is concerned, the spot Panchanama dated 8th August 2019, no where mentions about the damage to the CCTV Camera. The photographs taken by the investigating agency, prima-facie indicates that, the wires of the CCTV Cameras were found to be cut at the time of recording of the said Panchanama. Thus, prima-facie it appears that, the allegations made by the first informant Sameer V. Hakim are not corroborated during the course of investigation. It further appears from the record that, there is a dispute over the ownership of shops, which are in possession of the informant on one side and Applicants on the other side. As there is a case and cross case, the incident in question cannot be disputed.

5. However, the only question which remains for consideration is whether the custodial interrogation of the Applicants for further investigation of present crime is necessary or not.

As noted earlier, the relevant allegations of the informant in the First Information Report are not corroborated by the spot Panchanama dated 8th August 2019 and statements of witnesses. It therefore, can be inferred that, the version of the informant in its report is an exaggerated

version. The Applicants in Criminal Anticipatory Bail Application No.1928 of 2019, are attributed with the alleged role of assaulting the informant with fist and kick blows and chappals. It is further alleged that, they snatched a bracelet made up of gold metal from the hand of informant. The allegation made against the said Applicants is not corroborated till date during the course of investigation.

6. After taking into consideration the aforesaid facts, this Court is of the view that, the custodial interrogation of the Applicants for further investigation of the present crime is not necessary and they can be protected by pre-arrest bail.

7. Interim reliefs, granted by Orders dated 5th September 2019 passed in Anticipatory Bail Application No.1953 of 2019; Order dated 3rd September 2021 passed in Anticipatory Bail Application No.1928 of 2019 and Order dated 16th September 2021 passed in Anticipatory Bail Application No.1997 of 2019, are hereby confirmed.

However, the Applicants are directed to attend the Investigating Officer as and when called for, after receipt of notice in writing with specific date and time of their attendance in the Police Station till filing of final report against them.

8. Anticipatory Bail Application No.1928 of 2019, Anticipatory Bail Application No.1997 of 2019 and Anticipatory Bail Application No.1953 of

2019 are allowed in the aforesaid terms.

In view of the disposal of A.B.A. No.1928 of 2019, A.B.A. No.1997 of 2019 and A.B.A. No.1953 of 2019, Interim Application No.304 of 2019 in A.B.A. No.1928 of 2019 and Interim Application No.1020 of 2019 in A.B.A. No.1997 of 2019, do not survive and are accordingly disposed off.

(A. S. GADKARI, J.)