

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

**ANTICIPATORY BAIL APPLICATION NO.111 OF 2022
WITH
CRIMINAL APPLICATION NO.345 OF 2022**

SANJAY NAGRAJ PATIL

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. N.L. Choudhari, Advocate for the applicant

Mrs. V.N. Patil-Jadhav, APP for the respondent

Mr. U.S. Patil, Advocate for assist to PP

...

WITH

**ANTICIPATORY BAIL APPLICATION NO.107 OF 2022
WITH
CRIMINAL APPLICATION NO.346 OF 2022**

PAPPU @ RAOSAHEB JAYWANTRAO WAGH

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. A.B. Girase, Advocate for the applicant

Mrs. V.N. Patil-Jadhav, APP for the respondent

Mr. U.S. Patil, Advocate for assist to PP

...

CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 11th FEBRUARY, 2022

PRONOUNCED ON : 22nd FEBRUARY, 2022

ORDER :

1 Both Criminal Application Nos.345 of 2022 and 346 of 2022 moved for assist to PP stand allowed and disposed of.

2 The applicants-accused are apprehending their arrest in connection with Crime No.1/2022 dated 01.01.2022 registered with Mehunbare Police Station, Dist. Jalgaon, for the offence punishable under Section 307, 294, 506 read with Section 34 of the Indian Penal Code, 1860.

3 Heard learned Advocate Mr. N.L. Choudhari for the applicant in Anticipatory Bail Application No.111 of 2022, learned Advocate Mr. A.B. Girase for the applicant in Anticipatory Bail Application No.107 of 2022 and learned APP Mrs. V.N. Patil-Jadhav, well assisted by learned Advocate Mr. U.S. Patil for the informant, in both matters.

4 The learned Advocates representing both the applicants-accused have submitted that the First Information Report is nothing but a concocted story. Applicant Sanjay Patil is owner of restaurant/hotel, whereas the so called eye witness Bhushan Patil also runs a hotel in the nearby vicinity. There is business rivalry between them and, therefore, in collusion with the informant he has caused First Information Report to be lodged. The

concoction of the story is also apparent. The informant one Sambhaji Valmik Wagh submits that he had gone to the hotel of the applicant Sanjay Patil around 9.00 p.m. on 31.12.2021. The said hotel viz. 'Hotel Kunal' is situated on Chinchgavhan fata on Dhule-Chalisgaon Highway, whereas the informant is resident of village Dahiwad, Tq. Chalisgaon. Informant states that after the dinner, he just laid down on a cot, which was in front of Hotel Kunal and he went earlier. He was awoken by applicant Sanjay Patil around 3.00 to 3.30 a.m. on 01.01.2022. Applicant Sanjay Patil was along with another applicant Pappu Jaywantrao Wagh. Thereafter, Sanjay Patil started saying that informant should give his daughter Ashwini in marriage to Sanjay. There was thereafter altercation and then Sanjay Patil started assaulting him and abusing him in filthy language. Applicant Pappu caught hold of informant. Applicant Sanjay had assaulted informant by brick on his left leg, left knee and head. It is then stated that applicant Sanjay started saying to informant that why he is objecting for the sexual intercourse by him with daughter of informant and he would kill him at that place itself and then Sanjay pressed the neck of the informant as well as pressed his testicles. When it was found that informant was suffocating, at that time, witness Bhushan Prabhakar Patil and younger brother of the informant Amrut Wagh came to that place and rescued him. Applicant Sanjay Patil left the place by giving threats. Informant was then taken to hospital and thereafter he has lodged the report.

5 Learned Advocates for the applicants further submitted that the physical custody of the applicants is not required for the purpose of investigation. Why the informant had not returned to his house on the night has not been explained by him and the entire story becomes suspicious with the presence of Bhushan Patil and Amrut Wagh, as narrated. The applicants are ready to abide by the terms of the bail.

6 Learned APP, with assistance of learned Advocate Mr. U.S. Patil for the informant, submitted that clear role has been attributed to the applicants in the First Information Report. Statements of witnesses have been recorded, which show that when those witnesses went to the spot, the applicants were still present, and in their presence also the informant was assaulted. Applicants have committed serious offence, only because of the witnesses his life could be saved and, therefore, discretionary reliefs need not be granted in favour of the applicants.

7 Perusal of the First Information Report as well as police papers are raising so many questions. No doubt, we are at a very prima facie stage, but still those facts, which appear suspicious, will have to be noted here. The first and the foremost fact is that none of the witnesses have stated, as to what is the distance between Dahiwad and Chinchgavhan fata on Ghule-Chalisgaon Highway. As per the informant, he had dinner around 9.00 p.m.

on 31.12.2021 and it is not stated, as to why he slept on the cot in front of the hotel. It has been submitted on behalf of the applicants that in fact, the informant had consumed liquor and thereafter he was sleeping in the hotel. The question then arises is, as per the First Information Report, the incident had taken place at about 3.00 to 3.30 a.m., how witness Bhushan Patil could have come to know about the incident. If we peruse his statement under Section 161 of the Code of Criminal Procedure, then it is to be noted that he states that he was at his hotel, which is different than the hotel of applicant Sanjay Patil and around 9.00 p.m. the informant had gone along with applicant Pappu Wagh to his hotel and all of them had chitchatted for long time i.e. up to 12.00 mid night. According to him, three of them i.e. he himself, applicant Pappu Wagh and informant went to meet applicant Sanjay Patil. Then all the four of them had dinner and thereafter when they were chitchatting, applicant Sanjay Patil told informant that he should give his daughter in marriage to him. Thereafter, there were altercations between Sanjay Patil and informant and, therefore, this witness Bhushan Patil went to his hotel for sleep. However, he could not sleep well and then around 3.00 to 3.30 a.m. he went to one Gayatri Hotel, where he found that Sanjay Patil and Pappu Wagh were assaulting informant. Whatever has been uptill now stated as a part of statement of witness Bhushan Patil does not stand corroborated to the story told in the First Information Report. He also referred that he had

gone to Gayatri Hotel and not to Hotel Kunal belonging to applicant Sanjay Patil. He had then stated that he concealed himself at a corner of the hotel and had video recorded the incident. Important point to be noted is that the Investigating Officer has prepared Seizure and Transcript Panchnama on 07.01.2022. Interestingly, the panchnama states that Bhushan Patil produced pen drive and made statement that he had recorded it in his mobile, but then from mobile he has transferred it to the pen drive and the pen drive has been produced. At this stage, the prosecution is not explaining as to why the mobile of witness Bhushan was not seized. No doubt, it appears that the recording is appearing in the pen drive. There was some incident of applicant Sanjay Patil assaulting informant by brick. The assault is on leg and head. As regards applicant Pappu Wagh is concerned, it is stated that he is found to be holding informant. Statement of witness Bhushan Patil would give a picture that he had not tried to intervene and after informant fell on the ground and was not moving, he gave phone call to brother of the informant and after Amrut - brother of the informant came, witness intervened and helped informant to be taken by his brother. He then went to hotel and slept. Statement of Amrut Wagh states that he had received phone call of Bhushan around 4.00 a.m. and then he went to the spot, but then he says that he and Bhushan had intervened.

8 There are statements of other witnesses also, but they are hearsay statements. Interesting point to be noted is that the Investigating Officer appears to have not recorded the statements of the employees of the hotel uptill now, who could have been in the hotel, at the relevant time. The informant and learned APP are harping upon the evidence in the form of the recording made in the mobile of witness Bhushan Patil. However, as aforesaid, the police papers do not contain certificate under Section 65-B of the Indian Evidence Act and as aforesaid, it is pen drive and not the mobile, that has been seized in the case. The role attributed to the applicant Pappu Wagh is catching hold of the informant. Main role is attributed to applicant Sanjay Patil, however, his physical custody may not be required. Taking into consideration the evidence that has been collected uptill now, nothing is required to be recovered or discovered from him. Therefore, by imposing conditions, the applications deserve to be allowed. Hence, following order.

ORDER

1 Both Anticipatory Bail Application Nos.111 of 2022 and 107 of 2022 stand allowed.

2 In the event of arrest of the applicant viz. **Sanjay Nagraj Patil** (in A.B.A. No.111 of 2022) and applicant viz. **Pappu @ Raosaheb Jaywantrao**

Wagh (in A.B.A. No.107 of 2022), in connection with Crime No.1/2022 dated 01.01.2022 registered with Mehunbare Police Station, Dist. Jalgaon, for the offence punishable under Section 307, 294, 506 read with Section 34 of the Indian Penal Code, 1860, they be released on P.R. of Rs.50,000/- (Rupees Fifty Thousand only) each with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each.

3 Applicants shall not indulge in any criminal activity nor shall tamper with the prosecution evidence, in any manner.

4 They should cooperate with the investigation.

5 Applicant Sanjay Nagraj Patil to remain present before the Investigating Officer on every Monday, Wednesday and Friday, between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

6 Both Criminal Application Nos.345 of 2022 and 346 of 2022 stand disposed of.

(Smt. Vibha Kankanwadi, J.)