

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.251 OF 2022
WITH
CRIMINAL APPLICATION NO.894 OF 2022

RAJU TUKARAM KAMBLE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. D.M. Shinde, Advocate for applicants

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

Mr. A.P. Deshmukh, Advocate for assist to PP

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 11th MARCH, 2022

PRONOUNCED ON : 15th MARCH, 2022

ORDER :

1 Criminal Application No.894 of 2022 moved for assist to PP stands allowed and disposed of.

2 Present applicants are apprehending their arrest in connection with Crime No.386/2021 dated 18.12.2021 registered with Kinwat Police Station, Dist. Nanded, for the offence punishable under Section 307, 354-D, 457, 506 read with Section 34 of the Indian Penal Code, 1860.

3 Heard learned Advocate Mr. D.M. Shinde for applicants and
learned APP Mrs. V.N. Patil-Jadhav, well assisted by learned Advocate Mr. A.P.
Deshmukh for the informant.

4 It has been vehemently submitted on behalf of the applicants
that the application is based on concocted story as retaliation. Present
applicant No.1 had filed First Information Report bearing Crime
No.336/2021 with the same Police Station on 19.10.2021 for the offence
punishable under Section 436, 427, 506 read with Section 34 of the Indian
Penal Code against one Rohit Singare, Raj Maroti Singare, Nirmala Maroti
Singare and Maroti Singare. The informant in the present case i.e. Crime
No.386/2021 is the cousin niece of Nirmala Singare. It was contended by the
present applicant No.1 in his report that all the accused persons had
trespassed into his house on 19.10.2021 at about 2.00 a.m. and thereafter
they had set his house as well as shop (pendal decoration) to fire by pouring
petrol. The damage that was caused to the property of the applicant No.1
was to the tune of Rs.5,00,000/-. The accused persons were arrested and
their bail applications came to be rejected by the learned Additional Sessions
Judge, Nanded on 15.12.2021, and, therefore, on 18.12.2021 the informant
had lodged report against the present applicants in respect of an alleged
incident took place at 9.30 p.m. on 17.12.2021. Definitely, there is much

delay in lodging the report, when she says that the incident had taken place at about 9.30 p.m. on 17.12.2021 and the report has been lodged around 18.32 hours of 18.12.2021. Nothing is required to be recovered at the instance of the present applicants. Further, the story itself is unbelievable and improbable. When she states that the applicant No.2 was harassing her and insisting that she should accept the love of the applicant No.2 and for that purpose the entire family would join the applicant No.2. The applicants are ready abide by the terms of the bail.

5 Learned APP well assisted by learned Advocate Mr. A.P. Deshmukh strongly objects the application and submitted that the applicants have absconded and there is evidence against them. The neighbours had seen articles belonging to the informant set to fire. The informant was alone when the incident took place and the neighbours have stated that they had seen two persons running but due to darkness they could not identify, but immediate disclosure by the informant to them that they were the applicants carries importance at this stage. The custodial interrogation of the applicants is necessary.

6 At the outset, it is to be noted that this Court without there being any concrete evidence cannot jump to the conclusion that there was any

connection between the First Information Report lodged by applicant No.1 bearing Crime No.336/2021 on 19.10.2021 against the other four persons and the present First Information Report. Further, there is no such documentary evidence to show that there is any relationship between accused Nirmala in that case and the present informant. So also, it would be very much premature to observe that the allegations in the present First Information Report are based on concocted story or the story itself is improbable. However, this Court will have to consider whether the custodial interrogation of the applicants is necessary and whether the extraordinary powers of this Court can be exercised in favour of the applicants.

7 The informant, who is a 21 years old lady, states that she is married, however, she is residing with her parents since last about four months. However, she is not well along with her husband. She used to be alone in the house as the other family members used to go for work. She states that the applicant No.2, who is residing in the same lane where she is residing, was following her with ill intention and used to give her mental harassment. When she had told the said fact to applicant No.1, who is the father of applicant No.2, the applicant No.2 scolded her and told that since she is a girl she should keep quiet and if she discloses the said fact to anybody she would be killed. She states that at 9.30 p.m. on 17.12.2021 she

was alone in the house and when she could notice some movement, she thought that her parents would have arrived and, therefore, opened the door. When she found the present applicants, she asked, as to what is the work with her at odd hours, then, the applicant No.2 pushed her from the door. Applicant No.1 was carrying the bisleri bottle, in which there was petrol. Applicant No.1 told that why she is not talking with the applicant No.2 when he is loving her. He threatened that if she does not go on talking with the applicant No.2, she would be killed by ablazing and then applicant Nos.3 and 4 caught hold of her hands, applicant No.4 poured kerosene on her person, applicant No.2 took out the match box. Then, she realized that she would be set to fire, she started shouting and when the applicant No.2 was in the process of igniting the match stick and throwing on her, she gave jerk and by rescuing herself she went in the second room and concealed herself. The ignited match stick fell on the cot, as a result of which, the quilt and the bed sheet caught fire. After hearing her noise and also noticing the few neighbours came the applicants fled away by giving her threat to kill. The fire was extinguished and then she has lodged the report. The police papers would show the statements of witnesses but some witnesses have stated that they have heard the quarrels in front of house of informant. Two of them have stated that they had seen two persons running away but they could not identify because of the darkness. Those persons have stated that they saw

the quilt and the bed sheet caught fire and then it was extinguished. The spot panchnama shows that there was a cot and the middle part was burnt. Piece of sari, which was burnt, could be seen on the ground. At this stage, it can be seen that the immediate persons, who had gone to the said place is one Godawari, to whom immediate disclosure is stated by the informant, but she does not say that she could smell petrol from the person of the informant. Other 2-3 witnesses have stated that they were around the same lane at that time, but they could not see anything nor even the voice of quarrel. It appears that the another piece of the said sari which had received burn has not been seized by the police. Another interesting point is, if the burning match stick had not come in contact with the informant's sari, then, how there was damage in the middle of the six yards sari. First Information Report is totally silent on that point.

8 Taking into consideration all these aspects the application deserves to be allowed. The custodial interrogation of the applicants is not required. Making them available for investigation would serve the ends of justice. Hence, following order.

ORDER

1 Application stands allowed.

2 In the event of arrest of the applicants viz. **1) Raju Tukaram Kamble, 2) Divyapushpa Raju Kamble 3) Jivak Raju Kamble** and **4) Karuna Raju Kamble**, in connection with Crime No.386/2021 dated 18.12.2021 registered with Kinwat Police Station, Dist. Nanded, for the offence punishable under Section 307, 354-D, 457, 506 read with Section 34 of the Indian Penal Code, 1860, they be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) each with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

3 The applicants shall not indulge in any criminal activity nor they should tamper with the prosecution evidence, in any manner.

4 They shall co-operate with the investigation.

5 Applicant Nos.1 to 3 should remain present before the Investigating Officer on every Monday between 11.00 a.m. to 02.00 p.m., till filing of the charge sheet.

6 Criminal Application No.894 of 2022 stands disposed of.

(Smt. Vibha Kankanwadi, J.)