

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.311 OF 2022

NUTANBAI W/O DIPAK LALAJI JAISWAL
AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. A. D. Soman
APP for Respondent-State : Ms. Vaishali Patil Jadhav

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CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving The Order :
08-04-2022**

**Date of Pronouncing The Order :
27-04-2022**

ORDER :

1. The applicants are apprehending their arrest in connection with Crime No.153 of 2022, registered with Police Station Sadar Bazar, Jalna, for the offence punishable under Section 454, 380 of IPC.
2. Heard learned Advocate Mr. A. D. Soman for applicants and learned APP Ms. Vaishali Patil Jadhav for respondent-State. In order to cut short, it is stated that both of them have made submissions in support of their respective contentions.
3. The FIR has been lodged by one Aruna Ulhasrao Takle stating

that she has another house on Kadrabad Panivesh Road where she pays visit intermittently. She had received phone call at about 02.00 p.m. on 18-02-2022 from the neighbour at Kadrabad, that her articles from the house are scattered outside the house, and therefore, she along with her husband and son went to that place. They found that the latch to the house as well as shop was broken. Some of the articles were scattered out side the house. She then directly jumps to the conclusion that the present applicants were amongst those persons who had stolen the articles. She has given that two CCTV unit having four cameras, DVR machine, computer table, 10 wheel chairs, 5 iron chairs, 2 wooden counters, 2 iron racks, 2 table fans, one water pump, one wooden bench, total worth of Rs.40,500/- were stolen.

4. It is to be noted from the contents of the FIR that she has not stated that she had made inquiry with the neighbouring persons before lodging the report nor she has given any such facts which would show that there was enmity between her and the present applicants who appear to be the neighbours. Then the question is, as to how she came to know that the applicants and the co-accused are the only persons behind the commission of the crime.

5. Perusal of the FIR would show that the statement of the husband of the informant and son are on the same line. They have also not stated that they had made inquiry with the neighbouring persons and then they gathered the information that the applicants are behind the said act. Statement of one Azam Khan Dilawar Khan Pathan residing nearby appears to have been taken and then he has stated that the present applicants and certain other persons were seen taking certain household articles, and thereafter, after some time the informant and her relatives came and after inspecting, it was told that such and such articles have been stolen. He has also stated that he had seen applicants committing theft of those articles. It is to be noted that he has not stated that he had ever tried to stop the applicants from doing any such act. He has also not stated that he had tried to inform the said fact to the informant. Same is the case with the statement of one Manohar Jagannath Shingare. If we consider the FIR, then the informant, her husband and son in their statement have stated that one Pratap Badri Jarhad, residing in the neighbourhood, had given the said information to them. However, the police papers do not show that statement of said Pratap Jarhad has been recorded. If we consider the spot panchanama minutely then it is mentioned that in front of the house there are five to six

chairs, iron rack, table, iron chair, two coin box, one wooden table, a banner of ladies ware, iron box, currency counter machine, computer screen and ladies purse for sale, steel utensils. There is no specific mention that the latch of the door of the house was broken. What has been stated is that the cabin door was broken. Even photographs are appear to have been taken and many articles could be seen. Along with the FIR no such document appear to have been produced which would show that the informant was having 10 wheel chairs, CCTV Cameras, iron racks, wooden counters etc.. Even the matter was adjourned on one occasion and the Investigating officer was directed to collect such evidence but what was given to him in the form of material that was purchased for sale are some ladies items and not the list which is appearing in the FIR. Therefore, in order to show that such articles were stolen, there is nothing in the police papers. Under such circumstances, the interim protection granted to the applicants deserve to be confirmed.

6. Another fact also to be noted is that there appears to be a dispute in respect of the house property between the applicant and the informant. The family of the applicants had made application to Chief Executive Officer, Nagar Parishad, Jalna for demolition of their

house for reconsideration and it appears that the present informant was obstructing him, and therefore, applicants had filed a complaint application to Deputy Superintendent of Police, Jalna, seeking police protection. With the said background, definitely the interim protection granted earlier deserves to be confirmed, accordingly it is confirmed. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) The interim protection granted by this Court on 21-03-2022 to the present applicants is hereby confirmed. In other words, in the event of arrest of the applicant No.1- Nutanbai w/o Dipak Lalaji Jaiswal and applicant No.2- Bhavna d/o Dipak Lalaji Jaiswal, in connection with Crime No.153 of 2022, registered with Sadar Bazar Police Station, Jalna, for the offence punishable under Section 380, 354 r.w.34 of IPC, they be released on P.R.Bond of Rs.30,000/- each with two solvent sureties of Rs.15,000/- each.
- 3) The applicants shall not tamper with the evidence of the prosecution in any manner.
- 4) They shall not indulge in any criminal activity and should co-operate with the investigation.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.