

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.391 OF 2022

1. Laxmi Kisan Dhurmekar
2. Gopi Chaturlal Shinde
3. Mahesh Lakhan Badgavkar ... Applicants

Versus

The State of Maharashtra ... Respondent

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Mr. R. S. Shinde h/f Mr. A. S. Sawant, Advocate for applicants.
Mr. B. V. Virdhe, APP for the respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 22.04.2022

ORDER :-

. The applicants are apprehending their arrest in connection with Crime No.29 of 2019 registered with Devpur Police Station, Dist. Dhule for the offences punishable under Sections 395, 436, 452, 427, 504, 506 read with Section 34 of Indian Penal Code. It will not be out of place to mention here itself that when the matter was on board on 04.04.2022, this Court has rejected the application of applicant No.2 – Gopi Chaturlal Shinde at the threshold and applicant Nos.1 and 2 were granted interim protection. Therefore, now we are supposed to consider the application in respect of applicant Nos.1 and 3 only for final

disposal.

2. Heard learned Advocate Mr. R. S. Shinde holding for learned Advocate Mr. A. S. Sawant for the applicant and learned APP Mr. B. V. Virdhe for the respondent – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. Perusal of the First Information Report (for short “FIR”) would show that it is lodged by the manager Ashok Mahavir Javarkar, who is serving with one Jagdish Narayan Jaiswal, who is having Government approved liquor shop at Mochiwada, Devpur, Dhule. The FIR is in respect of incident dated 06.03.2019 at about 6.15 p.m. It is stated that it had connection of the incident dated 05.03.2019. A person was found in injured condition at about 6.00 a.m. on 05.03.2019 in front of the liquor shop. That person expired at about 23.15 hours on the same day while undergoing treatment at Nashik. In the First Information Report it is stated that the accused persons, who are named, about 22 in numbers, along with 5 to 7 unknown persons, got annoyed with the death of that person and they had entered the liquor shop and ransacked the same. It is stated that huge quantity of liquor bottles were damaged and the damage was about Rs.55,000/-. It is then stated that 7 named persons

including present applicant No.2 – Gopi Chaturlal Shinde, had forcibly taken cash of Rs.14,000/- from the counter.

4. Further, in the FIR it is stated that applicant No.3 along with six other persons had thrown burning cloths inside the shop with an intention to put the shop to fire. It is also then stated that tables and chairs were damaged along with three plastic drums, light fitting, meter etc. and the damage was to the tune of Rs.15,000/-. It is to be noted that if the incident of breaking the liquor bottles had taken place early in point of time then the act of throwing burning cloths would have definitely resulted in big fire in the shop. But according to the informant, it has resulted in damage worth Rs.15,000/- only and, therefore, the said alleged act stated in the FIR as against applicant No.3 appears to be doubtful, as to whether it is really attracting offence under Section 436 of the Indian Penal Code.

5. Similarly, the allegations against applicant No.1 are that she along with six other persons, had brought the board of the shop and empty cardboard boxes out of the shop and put it to fire. The custody of applicant Nos.1 and 3 may not be required for the purpose of investigation. The act appears to be the outburst of the death of the person in front of the shop of the informant and taking into

consideration the mob psychology, the actions would have been done. The reasons mentioned by the Investigating Officer for custodial interrogation are not convincing at all. He has not indicated as to why really the custodial interrogation of the applicants is necessary. Nothing is required to be seized from applicant Nos.1 and 3 and, therefore, the interim protection granted earlier to applicant Nos. 1 and 3 deserves to be confirmed. Hence, the following order :-

ORDER

- I) Application is hereby allowed.
- II) The interim protection granted earlier to applicant Nos.1 and 3 stands confirmed and made absolute. In other words, in the event of arrest of applicant No.1 – Laxmi Kisan Dhurmekar and applicant No.3 – Mahesh Lakhan Badgavkar in connection with Crime No.29 of 2019 registered with Devpur Police Station, Dhule, Taluka and District – Dhule for the offence punishable under Sections 395, 436, 452, 427, 504, 506 read with Section 34 of Indian Penal Code, they be released on bail on P. R. Bond of Rs.30,000/- each with two solvent sureties of Rs.15,000/- each, if not already released.
- III) Applicant No.1 shall remain present before the Investigating Officer as and when called and co-operate with the investigation.
- IV) Applicant No.3 shall remain present before the Investigating Officer on every Monday and Thursday between 10.00 a.m. to

2.00 p.m. till filing of charge-sheet and co-operate with the investigation.

V) They shall not tamper with the evidence of the prosecution in any manner.

VI) They shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]

scm