

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

ANTICIPATORY BAIL APPLICATION NO.572 OF 2022

Shaikh Alim Shaikh Salim

Versus

The State of Maharashtra.

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WITH

ABA NO.473 OF 2022

1. Shaikh Waheed s/o Abdul Kadar &

2. Shaikh Hamid s/o Shaikh Kadar

Versus

The State of Maharashtra.

...

WITH

ABA NO. 486 OF 2022

Shaikh Mujib @ Chhotu s/o Shaikh Kadar

versus

The State of Maharashtra.

...

Advocate for Applicant : Mr. Salunke Sudarshan J

APP for Respondent : Mr. V M Kagne

(in all applications)

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CORAM : SARANG V. KOTWAL, J.

Dated : June 08, 2022

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**PER COURT :-**

1. All these applications are decided by this common order because they arise out of the same registered

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offence and the same investigation. Wherever necessary, the applicants are referred to by their names.

2. The applicants are seeking anticipatory bail in connection with C.R.No.141 of 2022 registered at Taluka Jalna Police Station, Jalna, District Jalna dated 20.3.2022 for the offence punishable under sections 395 and 120-B of the IPC. Main allegations are against the applicant Shaikh Mujeeb @ Chotu (applicant in ABA No.486 of 2022), the applicants in ABA No.473 of 2022 Shaikh Waheed s/o Abdul Kadar and Shaikh Hamid s/o Shaikh Kadar are his brothers and the applicant in ABA No.572 of 2022 Shaikh Alim Shaikh Salim is his friend.

3. Heard Mr. S.J.Salunke, learned counsel for the applicant/s and Mr. V M Kagne, learned APP for respondent-State in all these applications.

4. FIR is lodged by one Shaikh Pasha Miya @ Matin s/o Shaikh Nadeem, r/o Hyderabad. He has stated that he is in the business of selling and purchasing scrap material. On 15.3.2022 he had sent his truck bearing

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registration No.MP-09/HH-4120 with his driver Jitendrasingh to MIDC, Jalna. Truck was carrying scrap material worth Rs.17.00 Lakhs. On 16.3.2022 when the truck reached Choudhary Nagar, it was intercepted by the applicants and ten unknown persons. The driver called the informant telephonically. One of the accused snatched the phone. It is alleged in the FIR that applicant Shaikh Mujib @ Chotu threatened him. The truck was taken to a different place. Accused wanted to sell the scrap material. Driver was made to sit there for 3 to 4 hours. Accused put some iron material in the truck to make a show that the truck was carrying material stolen from railways. Driver then called informant's brother, who, inturn gave information to the first informant. On his part, the first informant made calls to the Jalna Police Station and requested to investigate. Police reached the applicant Mujeeb's Transport company. At that time, railway police officers were also present at the spot. They were conducting the panchnama. The driver told entire incident to the police. Phone was handed over back to the driver.

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Truck was taken to Jalna police station. After that, the informant came to Jalna and lodged his FIR.

5. Learned counsel for the applicant invited my attention to another FIR lodged at Rajendra Nagar Police Station, District Cyberabad vide C.R.No.2175 of 2021 on 26.10.2021 under section 420 IPC against the applicant Shaikh Mujeeb. This FIR was lodged by the informant's brother. It was lodged under section 420 of the IPC in respect of some business transaction involving scrap material. Learned counsel also relied on the notice sent on behalf of the applicant Mujeeb through his Advocate to informant's brother's company on 16.11.2021 calling upon him to pay the dues. Learned counsel therefore submitted that there was monetary transaction and the first informant has some dues to be paid to the applicant Shaikh Mujeeb. In this background a false case was registered against the applicants. Learned counsel also relied on the station diary entry of Kadim Jalna Police Station dated 16.3.2022. At 8.58 p.m. the station diary entry mentions that truck was stopped by

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the applicant Shaikh Mujeeb and police were planning to go to the spot. He submitted that even the railway police were present on the spot. It was submitted that offence under section 395 is not made out. Property in the truck was not sold, therefore, the applicants be released on bail u/s 438 of Cr.P.C.

6. Learned APP, on the other hand, opposed this application. He submitted that the accused tried to falsely implicate the first informant by putting some material belonging to the railway in the truck and making a show that the truck was carrying material stolen from railways. He submitted that the manner in which the driver was threatened dis-entitles the applicants for any relief.

7. I have considered these submissions.

8. At the outset, as pointed out by the learned counsel for the applicants, there does appear to be financial dispute between the parties. In the past, disputes had even reached the police station in

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Hyderabad. The applicant Mujib had demanded his dues from the informant's brother. FIR itself mentions that driver was knowing the applicants. The significant fact is that, the applicants had not taken away the truck to some unknown destination and had not sold scrap material. Property was in the truck. On the other hand, the applicants themselves had informed railway police about the truck and the goods carried by the truck and they had called police officers to inspect the truck. This all shows that, this may not amount to the offence punishable under section 395 of the IPC. Considering the previous dispute between the parties, custodial interrogation of the applicants is not necessary; it will cause irreparable loss to the reputation of the applicants. In this view of the matter, I am inclined to allow all these applications. Hence, following order.

**ORDER**

- i. Anticipatory Bail application nos.572 of 22, 473 of 2022 and 486 of 2022 are hereby allowed.

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- ii. In the event of arrest of the applicant-Shaikh Alim Shaikh Salim in Anticipatory Bail application No.572 of 2022, the applicant no.1-Shaikh Waheed s/o Abdul Kadar and 2-Shaikh Hamid s/o Shaikh Kadar in Anticipatory Bail Application No.473 of 2022 and the applicant-Shaikh Mujib @ Chhotu s/o Shaikh Kadar in Anticipatory Bail Application No.486 of 2022 in connection with C.R.No.No.141 of 2022 registered with Taluka Jalna Police Station, Jalna, District Jalna are directed to be released on bail on their executing P.R. Bond in the sum of Rs.25,000/- (Rs.Twenty Five Thousand) each with one or two sureties each in the like amount.
- iii. The applicants shall attend the concerned police station as and when called and shall cooperate with the investigation.
- vi. All the applications are accordingly disposed off.

**( SARANG V. KOTWAL, J.)**

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