

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

**ANTICIPATORY BAIL APPLICATION NO.632 OF 2022
WITH APPLN/2319/2022**

1. Amol s/o. Namdev Sonkamble
2. Ashish s/o Namdev Sonkamble
3. Ashwini d/o. Namdev Sonkamble
4. Sankita d/o. Kashinath Sonkamble ...Applicants

Versus

The State of Maharashtra ...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.555 OF 2022**

Ku. Prayagbai d/o. Jalbajirao Sonkamble ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Suraj R. Bagal, advocate for the applicants in ABA/632/2022.

Mr. Bharat N. Gadegaonkar, advocate for the applicant in ABA/555/2022.

Mr. V.M. Kagne, APP for the respondent-State.

Mr. Ashutosh Kulkarni, advocate for Assist to PP.

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CORAM : S.G. MEHARE, J.

DATED : 18th JULY, 2022.

PER COURT:-

1. Heard learned counsel for the applicants, learned APP for the State and learned counsel assisting the learned APP.
2. This Court has observed the fact in detail while granting interim protection to the applicants. It is not in dispute that the applicants and complainant are the relatives. It is also not in dispute

that the civil suit is pending between the applicants and the complainant. The complainant lodged the report first time on 16.03.2022 to the police specifically mentioning that the tenants and neighbourers and her sister-in-law told her the incident that some unknown persons are taking away the articles from her home. Surprisingly, the sister-in-law did not disclose the names of the applicants. The report dated 22.03.2022 reveals that the person informing the informant specifically informed that few goons are taking away the articles from her house. The said informants were witnessing the commission of the offence. The sister-in-law must be knowing the applicants but she did not tell the names of the applicants. However, subsequently the complainant lodged the report on 04.04.2022 alleging against the applicants first time that the applicants have taken away the articles from her house.

3. Learned counsel for the applicants has argued that only to pressurize the applicants to settle the civil dispute, a false story has been cooked against the applicants. There are no antecedents to the discredit of the applicants. Therefore the order granting the interim protection may be confirmed.

4. The learned counsel assisting the learned APP has argued that the report is genuine. The police were not prompt in taking actions on the report lodged by the complainant. Subsequently, it was transpired that the applicants were the persons who have stolen the

property from the house of the complainant in her absence. Therefore for recovery, the custodial interrogation is necessary.

5. The learned APP has fairly conceded that none of the witnesses who witnessed the commission of the offence disclosed the names of the applicants at the first instance.

6. Having regard to the facts of the case as observed above, there appears no suspicious circumstance against the applicants. At the very first time, the applicants names were not disclosed by the eye witnesses of the incident, but subsequently the report is lodged against the applicants by the complainant. In view of the facts and circumstances of the case, this Court is of the view that the applications deserve to be allowed. Hence, the following order :

ORDER

- I) Both the applications are allowed.
- II) The interim protection granted to the applicants by order dated 19.05.2022 and 06.05.2022 is confirmed on the same terms and conditions.
- III) Criminal Application No.2319 of 2022 filed for assisting the Public Prosecutor is allowed and disposed of.

(S.G. MEHARE, J.)