

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

ANTICIPATORY BAIL APPLICATION NO.674 OF 2022

1. Sachin @ Satish Sambhaji Kale
2. Kesharbai Shahaji Pawar @
Keshar Pradip Pawar
3. Dharmendra Gandisha Kale ... Applicants

Versus

1. The State of Maharashtra
Through Karjat Police Station,
Tq. Karjat, Dist. Ahmednagar
2. The District Superintendent of Police,
Ahmednagar, Dist. Ahmednagar ... Respondents

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Mr. Anil M. Gaikwad, Advocate for the Applicants
Mr. A.S. Shinde, APP for Respondent / State

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CORAM : SARANG V. KOTWAL, J.

DATE : 09th JUNE, 2022

PER COURT:-

. The Applicants are seeking anticipatory bail in connection with C.R. No.0424 of 2019 registered at Karjat Police Station, Dist. Agmednagar dated 18.08.2019, under Sections 420 r/w 34 of the Indian Penal Code.

2. Heard the Mr. Anil M. Gaikwad, learned counsel for the applicants and Mr. A.S, Shinde, learned A.P.P for the respondent / State.

3. The F.I.R. is lodged by one Malkappa Kolur. He stated that on 14.08.2019, he was travelling from Solapur to Mumbai in a train. He met an unknown person. They got acquainted with each other and during the course of conversation, both of them exchanged their phone numbers. On the next day, that unknown person contacted the informant and offered to sell some gold. Thereafter, the informant met that person and one lady. They showed the gold rings to the informant. The informant was satisfied that the rings were genuine. That person demanded Rs.1,00,000/- for the rings. On 18.08.2019, the informant came to Rashin Bus Stand. He asked the name of that person. He told the informant that his name was Mahendra kale and the gold was kept with Dharmendra Kale. Mahendra Kale took the first informant to a place about 10-15 k.m. It was away near a temple and towards the jungle. At that place two men and a lady were already present. They inquired as to whether the informant had brought Rs.1,00,000/-. They accepted the money and gave him two rings in a carry bag. Thereafter, these persons left on

motorcycle. The informant checked the rings, he realised that the rings were worthless. He realized that he was cheated and thereafter the F.I.R. was lodged naming Mahendra Kale, Dharmendra Kale, one unknown lady and one unknown man. Dharmendra Kale is the applicant No.3.

4. Learned counsel for the applicant submitted that it was a stale offence, which was allegedly committed in the year 2019. The applicant Nos. 1 and 2 are not named in the F.I.R. Even the applicant No.3 was not personally introduced by Mahendra with the informant by name. He submitted that the address of the applicant No.3 was mentioned in the F.I.R. as resident of Dhalwadi, Tq. Karjat. Thus, though the police were aware of the address for more than 2½ years, he was not arrested. No efforts were made to trace him. As far as other two applicants are concerned, they were not named in the F.I.R. and after 2½ years their custodial interrogation is totally unjustified.

4. Learned A.P.P. opposed this application. He submitted that after arrest of the main accused Mahendra Kale in October, 2020, the names of the other applicants transpired and therefore the their custody is necessary for interrogation.

5. I have considered these submissions. The manner in which the transaction was conducted by the informant, itself is strange. The informant was taken to a secluded place for taking the rings. At the time of accepting the rings and paying money, he had not checked the genuineness of the rings. It is quite strange. Apart from that, the offence is very old. The applicant No.3 was named in the F.I.R. There is nothing put forth before the Court by the investigating agency as to what efforts were taken to arrest the other applicants after the arrest of main accused Mahendra. As far as other two accused are concerned, after such a long period their arrest would not be justified. As mentioned earlier, the story of informant of trusting unknown people with such big amount also appears to be difficult to believe. Considering the totality of these circumstances, custodial interrogation of the applicants is not necessary.

6. Hence the following order:

O R D E R

- (i) In the event of their arrest in connection with C.R.No. 0424 of 2019 registered at Karjat Police Station, Dist. Ahmednagar, the applicants are directed to be released on bail on their furnishing P. R. bond in the sum of

Rs.25,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.

(ii) The the applicants shall attend the concerned police station as and when called and shall cooperate with the investigation. In addition, the applicants shall attend the concerned Police Station from 04.07.2022 to 06.07.2022 between 1.00 p.m. to 5.00 p.m. and shall cooperate with the investigation.

(iii) The application is disposed of accordingly.

[SARANG V. KOTWAL, J.

S.P Rane