IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.976 OF 2022

DIGURAJ KIRAN INGALE
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicant : Ms. Kshitija G. Sarangi h/f Mr. D.A. Madake
APP for Respondent/State : Mr. K.S. Patil

WITH
ANTICIPATORY BAIL APPLICATION NO.1003 OF 2022

SANKET @ SATYAM LAXMIKANT MUNDLIK
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for the Applicant : Mr. S.S. Thombre
APP for the respondent-State : Mr. K.S. Patil
...

CORAM : S.G. MEHARE, J.

DATED : 04th AUGUST, 2022

ORDER :-

1. Heard learned counsels for the applicants and the learned APP for the State.

2. The father has lodged a complaint in detail against the present applicants. It has been alleged that his son had raised a loan from all these applicants and has repaid the money with interest. However, the applicants have threatened his son and kidnapped him. They have forcibly taken the valuable articles from him. Primarily, the complainant has come up with a case that in the year 2019, his son was studying at Pune. However, due to the Covid-19 pandemic,

he returned home to Aurangabad. He saw him under pressure; therefore, he took him in confidence. At that time, his son opened and told him that when he was studying at Pune in 2019, he had raised a hand loan of Rs.3 to 4 lacs from his friends i.e. the applicants for college fees and the expenses of the accidental medication of his one friend Vedant Nagarkar and other expenses. Thereafter, a story was developed that all the accused started demanding more money with an interest of 2% per month. Since the accused were torturing his son, he has raised a personal loan of Rs.5 lac and transferred it to the account of his son. His son transferred the money to the accounts of the present applicants and others through the bank. However, the applicants continued to demand him money under the garb of interest. It has also been alleged against them that the applicants Sanket Mundlik, Suyog Vaidya and Vaishnav Patil assaulted him and snatched a golden chain of 10 grams, two rings, an iPhone mobile and an iPhone wristwatch amounting to Rs.3 lacs against the interest. It is also alleged that the accused were not satisfied; therefore, they went to his home and threatened them that if they did not pay their money back, they would kidnap his son. It is also alleged that in the month of March-2021 when his son went to the market, he was kidnapped, and a phone call was made to him. They have demanded an amount of Rs.95 lacs towards the money they have paid and threatened him that if he lodged the report, they would kill his son. He raised a loan of Rs.95 lacs from the company between March 2021 and May 2021. Again he had transferred the said amount to the account of his son, and his son transferred the amount to the accounts of the accused. The demands continued; he was going on paying the money to his son and transferring it to the accused. It is also alleged that the documents of his house were taken by one Ravan Jagtap, the maternal uncle of one of the accused, Sagar Gaikwad. Under the promise to settle the matter, finally, one of the co-accused had taken Rs.5 lacs from him. The overall allegations made in the complaint reveals that time and again, the complainant and his son were threatened, and he went of paying the money to the applicants. It has also been mentioned in the FIR that from time to time, the complainant transferred Rs.1,24,03,611/- in the account of his son. In such a way, the applicants have extracted the excess amount of Rs.93,27,264/- and the articles worth Rs.3 lacs from him and his son.

3. Learned counsels for the applicants would submit that the name of the applicant Diguraj has been named only once in the FIR. The counsel for the applicant Diguraj has fairly conceded that the amount which he had deposited was partly returned as mentioned in the FIR. Thereafter, he has no contact with the complainant. In fact, the applicant Diguraj and the son of the complainant are childhood friends. They have cheated the applicant Diguraj.

4. It has been further argued by the learned counsels for the applicants that the son of the complainant was collecting money from many people with a promise to give them a good return by investing their money in the share market. It has been vehemently argued that it is quite impossible that the father did not know about the activities of the son who was raising such a huge amount in lacs of rupees. They had a specific argument that the complainant was also involved in the business of collecting money from people. Their *modus operandi* was to return the amount taken for the first time, and then after the second time, they used to avoid the payment. In this case, the entire payments have been made through the bank accounts. The applicant Sanket has lodged the complaint under Section 138 of the Negotiable Instruments Act against the son of the complanant. The notice of the said complaint was served upon the son of the complainant, and thereafter, skillfully, the present FIR is registered. In fact, whatever transactions have been done were done with the free consent of the complainant and his son. They were never forced to pay the excess amount. Only to harass the applicants, a false story has been cooked.

5. It has also been argued by the learned counsels for the applicants that they have faced the inquiry by the Economic Wing. They have supplied the documents sought and given their bank accounts. The applicant, Sanket, has a business of used vehicles. He

is an income tax payee. However, with an ill motive to put the applicants the loss, the complainant with his son has cooked a false story. The applicants have already co-operated with the investigation done by the Special Economic Wing. They never fled away from justice. They are still ready to co-operate with the investigation if required. Therefore, the applicants may be released on anticipatory bail.

6. Learned APP has strongly opposed the application. He would point out that a huge money transactions were there among the complainant, his son and the accused. He has fairly conceded that the applicants have faced the inquiry done by the Economic Wing. However, he has opposed the application on the ground that the applicant Sanket and others except, Diguraj, have abducted the son of the complainant and snatched golden ornaments, iPhone mobile and iPhone watch. Those articles are to be recovered from the applicant Sanket. Therefore, custodial interrogation is necessary.

7. The Court has discussed the allegations levelled against the applicants in detail in the above paragraphs. It appears that the father knew well that his son was raising money. There seems substance in the submissions of the learned counsels for the applicants that the son having no income, was using the costly mobile phones and watches and golden ornaments. There also appears substance in the submission of the learned counsels for the applicants

that the transactions have been done with the knowledge of the complainant. Since the action has been taken against the son by applicant Sanket, a story has been set up by the complainant. The applicants have also faced the inquiry before the Economic Wing. They have provided the documents. The entire offence relates to the money transaction done through the bank. There is an inordinate delay in lodging the report. The defence raised by the applicants appears probable. Therefore, considering the long history of the allegations and bonafide co-operation of the applicants in the investigation by the Economic Wing, this Court is of the view that the custodial interrogation of the applicants would serve no purpose. Hence, the following order :

ORDER

(A) Both Applications are allowed.

(B) In the event of arrest, the applicant, Diguraj Kiran Ingale in Anticipatory Bail Application No.976 of 2022 and Sanket @ Satyam Laxmikant Mundlik in Anticipatory Bail Application No.1003 of 2022, be released on anticipatory bail, on executing P.B. and S.B. of Rs.50,000/- (Fifty Thousand) each with one or two solvent sureties in the like amount in Crime No.201 of 2022 registered with Satara Police Station, District Aurangabad for the offence punishable under Sections 420, 392, 364-A, 384, 506 r/w 34 of the Indian Penal Code, on the condition that they shall attend the police station as and when called by the Investigating Officer on written notice and shall not tamper with the prosecution witnesses.

(S.G. MEHARE, J.)

Mujaheed//