

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1559 OF 2021

SANDIP BHAGWAN PARKHE @ PAKHARE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. S.S. Jadhav, Advocate for applicants

Mr. A.M. Phule, APP for the respondent

...

WITH

ANTICIPATORY BAIL APPLICATION NO.1416 OF 2021

ARVIND LAXMAN ARGADE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. S.S. Jadhav, Advocate for applicants

Mr. A.M. Phule, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 13th JANUARY, 2022

PRONOUNCED ON : 27th JANUARY, 2022

ORDER :

with Crime No.420/2021, dated 04.11.2021 registered with Karmad Police Station, Dist. Aurangabad, for the offence punishable under Section 363 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. S.S. Jadhav for the applicants as well as learned APP Mr. A.M. Phule for the respondent/State in both applications.

3 It has been vehemently argued on behalf of the applicants that initially the offence came to be registered under Section 363 of the Indian Penal Code, however, later on additional charges under Section 365, 323 read with Section 34 of the Indian Penal Code have been added. The applicant in Anticipatory Bail Application No.1416 of 2021 has been named in the First Information Report, however, the other applicants in Anticipatory Bail Application No.1559 of 2021 have not been named. It has been alleged that the victim was abducted by the accused persons as he stood as guarantor to the financial transaction between the cousin brother of the victim and accused Arvind. In fact, nothing is required to be seized from the present applicants. Further, the say, that was filed by the Investigating Officer before the Additional Sessions Judge, would disclose that in the CCTV footage what has been seen is that the victim was along with certain persons parking the

vehicle in front of a hotel. There was also a four wheeler and it could be seen that the victim as well as the other accused were drinking liquor in the hotel. Thereafter, it is also seen that the victim, witnesses and accused were assaulting and manhandling with each other. Thereafter, the accused persons were dragging the victim towards the four wheeler and then it is stated that those persons were accused Arvind and Sandip. It cannot be stated that the victim was confined by the applicants for any ulterior motive. The applicants are ready to abide by the terms of the bail.

4 Per contra, the learned APP strongly opposed the applications and submitted that as per the prosecution story, one Vishnu Gabu Chavan, who is the cousin brother of the victim Raju Rohidas Rathod, had taken amount of Rs.12,40,000/- from accused Arvind. It was in respect of supply of labour by Vishnu for sugarcane cutting. He was to supply 8 pairs of labour. However, four pairs did not report for the work of sugarcane cutting and taking the amount they fled away. Accused Arvind was demanding the said amount back from Vishnu and it was the say of the victim that as a middleman Vishnu had called him. Though he had refused the proposal by Vishnu, he accepted the proposal by Arvind. It is then stated that meeting was held on 02.11.2021 and it is agreed that Vishnu would pay amount of Rs.5,00,000/- on 05.11.2021. According to the victim, Arvind came to

Maharashtra Hotel, Adul on 03.11.2021 itself and there was again discussion between victim, Vishnu and accused Arvind. Thereafter, all of them went to Kartik Hotel, Pandhari Pimpalgaon for drinking liquor. They were joined by one Hiralal Dagdu Rathod and Raju Aade. Accused Arvind was asking Vishnu to give the amount prior to the date which he had accepted and then had triggered the dispute between all of them. According to the victim, Vishnu fled away from the spot and victim was nabbed by Arvind and his three associates. He was then taken to a village in Ahmednagar district and kept there for two days. After it was learnt by the accused persons that the victim has been confined and offence has been registered, he was left on 04.11.2021. Therefore, taking into consideration this story, definitely, the custodial interrogation with the applicants in both the applications is necessary, though anything may not be required to be seized from the applicants. The offence that has been committed is serious in nature. There is evidence against the present applicants in the form of CCTV footage. Possibility of tampering cannot be ruled out.

5 As aforesaid, the prosecution story has already been narrated. According to the victim, Vishnu was along with him, when the alleged incident took place. However, perusal of the First Information Report does not reflect that Vishnu had given any kind of information to informant Sanjay

Rohidas Rathod, who is the real brother of the victim. The informant had received the information from Raju Gabu Aade, who is supposed to be the relative of victim. In fact, why Raju Aade has not filed the First Information Report, is a question. According to the informant, Hiralal Dagdu Rathod had also searched for the victim along with the informant, whereas the victim had stated that even Hiralal along with Raju Gabu Aade were along with the victim and accused persons. Further, when Vishnu appears to had given promise to pay the amount on 05.11.2021 and, at that time, it was accepted by Arvind, then, why Arvind would ask him to pay that amount early, is a question. Interestingly, police have seized copy of the bill paid by accused Arvind to Kartik Bar and Restaurant. That amount is Rs.6,710/-. If amount was due to him, then, why Arvind would spend so much of amount. Further, the police papers would show that uptill now the police have not recorded statement of Vishnu. Under such circumstance, on the basis of whatever evidence that has been collected uptill now, physical custody of the applicants appeared to be not required. The interim protection granted by this Court to the applicants deserve to be confirmed. Hence, following order.

ORDER

1 Both applications stand allowed.

2 The ad-interim protection, granted by this Court earlier to applicants vide order dated 16.12.2021 (in A.B.A. No.1559 of 2021) and 26.11.2021 (in A.B.A. No.1416 of 2021), is hereby confirmed and made absolute. In other words, if the applicants are not formally arrested, in the event of arrest of the applicants viz. **1) Sandip Bhagwan Parkhe @ Pakhare, 2) Raghunath mohan Argade and 3) Zabu @ Goraksha Nanasaheb Argade** (in A.B.A. No.1559 of 2021) and **Arvind Laxman Argade** (in A.B.A. No.1416 of 2021), in connection with Crime No.420/2021, dated 04.11.2021 registered with Karmad Police Station, Dist. Aurangabad, for the offence punishable under Section 363, 365, 323 read with Section 34 of the Indian Penal Code, 1860, they be released on P.R. of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one or two solvent sureties, each, in the like amount.

3 The applicants shall not indulge in any criminal activity nor they should tamper with the prosecution evidence, in any manner.

4 They should cooperate with the investigation and shall attend Karmad Police Station, Dist. Aurangabad, on every Monday and Thursday between 11.00 a.m. to 02.00 p.m., till filing of charge sheet.

(Smt. Vibha Kankanwadi, J.)