

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 ANTICIPATORY BAIL APPLICATION NO.1503 OF 2021
WITH
CRIMINAL APPLICATION NO.250 OF 2022

BHAURAO @ MADHUKAR POPAT WAGHMARE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. S.J. Salunke, Advocate for the applicant

Mr. N.T. Bhagat, APP for the respondent

Mr. S.D. Jayabhar, Advocate for assist to PP

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 18th JANUARY, 2022

ORDER :

1 Criminal Application No.250 of 2022 moved for assist to PP is allowed and disposed of.

2 Present applicant is apprehending his arrest in connection with Crime No.608/2021 dated 16.10.2021 registered with Shevgaon Police Station, Dist. Ahmednagar, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860.

3 Heard learned Advocate Mr. S.J. Salunke for the applicant as

well as learned APP Mr. N.T. Bhagat, well assisted by learned Advocate Mr. S.D. Jayabhar, for the respondent.

4 Perusal of the First Information Report would show that it has been lodged by one Mahesh Sambhaji Kharad in respect of suicide committed by his father Sambhaji. Sambhaji committed suicide around 3.00 a.m. on 16.10.2021. Thereafter, A.D. vide No.111/2021 was filed and thereafter it appears that the First Information Report has been lodged on the same date. At the later period of time it has been contended that his father was blackmailed by the present applicant and co-accused Sharad Waghmare and Kailas Waghmare since last about three months, on the count that there are photographs of his father with a lady and the father of the informant had illicit relations with that lady. Informant says that his father had given amount of Rs.4,00,000/- to those three accused persons and told them that he should not be defamed; yet, those three persons had demanded amount of Rs.8,00,000/- about 15 days prior to 16.10.2021 and threat was given that if the amount is not given then he would be killed. The informant also states that about 15 days prior to the date of First Information Report the present applicant had assaulted Sambhaji by iron rod and Sambhaji had sustained fracture to his right hand, for which he had taken treatment with Ghanwat Hospital, Shevgaon. Then, the informant says that at about 1.00 p.m. on

15.10.2021 the three accused persons had gone to the house of informant and in front of the mother of the informant, wife and two daughters of the informant, they had demanded amount of Rs.8,00,000/- to Sambhaji and had given threat. Due to which the father of the informant was under tension and then he committed suicide. It is submitted on behalf of the applicant that from these contents of the First Information Report the physical custody of the applicant is not required at all. In fact, there was nothing in the hands of informant which indicate that the applicant had taken part in commission of any crime. At no point of time, Sambhaji had made report to the police against the applicant, nor even the informant had lodged report, so that the police could take action against the applicant and co-accused. Therefore, the interim protection that was granted by this Court deserves to be confirmed.

5 The learned APP well assisted by Advocate Mr. S.D. Jayabhar representing the informant by filing Criminal Application No.250 of 2022 strongly opposed the application and submitted that the physical custody of the applicant is necessary. The accused persons had demanded the amount earlier also from the father of the informant, and accordingly, amount of Rs.4,00,000/- was given, but still they were greedy and additional amount of Rs.8,00,000/- was demanded. Threat was given and, therefore, the deceased was under tension. That demand and threat was given at about 1.00 p.m. on

15.10.2021 and it can be said to be the abetment given by the applicant and co-accused, which prompted the deceased to commit suicide. Further, there are criminal antecedents of the present applicant. There is threat to the life of the informant and the witnesses and, therefore, physical custody of the applicant is necessary.

6 At the outset, it is also to be noted that copy of the First Information Report, in Crime No.663/2021 registered with Shevgaon Police Station, Dist. Ahmednagar dated 09.11.2021 lodged by the wife of co-accused Sharad under Section 354, 504, 506, 509 read with Section 34 of the Indian Penal Code, 1860 and under Section 3(1)(w)(i), 3(1)(r), 3(1)(s), 3(2)(va) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has been produced. She had lodged the said report against deceased Sambhaji and one Shivaji Namdeo Jadhav. No doubt, on the day this First Information Report was lodged, Sambhaji i.e. accused No.1 therein was no more, but it was in respect of incident dated 02.09.2021 and according to her contention, when deceased Sambhaji had hugged her, accused No.2 Shivaji Namdeo Jadhav had taken photographs in his mobile. According to her, Shivaji was blackmailing her, and had given threat that if she does not meet him in sugarcane field, then, he would make those photographs viral. When she did not go to meet accused No.2 therein, she

has stated that said Shivaji Jadhav had made those photographs viral and they were seen by the villagers. As a result of which, her husband i.e. Sharad Waghmare had assaulted her and driven her out of the house. Then, she had gone to lodge report around 6.00 p.m. on 15.09.2021, but she was stopped by certain villagers and, therefore, she went along with her parents to her parental house. But, thereafter, she came to know that Sambhaji Sahebrao Kharad i.e. the father of the informant Mahesh has committed suicide. With this background, if we consider the present First Information Report, then, it can be seen that the photographs appear to be already viral and, therefore, where was the question of blackmailing of the deceased. Yet, even if we consider the allegations as it is, co-accused Sharad appears to be the husband of the lady who was seen in the photographs and he could have been the person who was aggrieved. But when the informant says that his father had given amount of Rs.4,00,000/-, the police papers do not show that he had produced any evidence to show that his father had that much amount with him and it could have been given during the said period of about one month. It is then also stated that 15 days prior to the First Information Report the present applicant had assaulted deceased Sambhaji and he had also taken treatment with Ghanwat Hospital, Shevgaon. Why he had not told as to how he had received the injuries and why he had not lodged the report in respect of that incident, is a question, for which we do not find any answer in the

First Information Report. He is then coming with a story that about 15 days prior to the First Information Report again amount of Rs.8,00,000/- was demanded by the three accused persons and also around 1.00 p.m. on 15.10.2021. Even at that time also Sambhaji could have lodged the report, but it has not been done. Under this circumstance, when there appears to be some other background to the story, which the informant does not appear to inclined to disclose, the interim protection that has been granted to the applicant deserves to be confirmed. Further, it is stated by the informant that the threat was given to kill deceased Sambhaji by the present applicant and co-accused if he fails to give the amount to them. This appears to be strange. If they would have killed Sambhaji, then, who would have given them the amount. Further, when the incident at about 1.00 p.m. on 15.10.2021 appears to have taken place in presence of the family members of Sambhaji, why they had also not lodged any complaint, is a question.

7 Sambhaji has admittedly committed suicide in his house at night time. The panchnama of the spot as well as the articles on the spot at that time have been seized. Postmortem report supports the conclusion about the suicide. Under such circumstance, nothing is required to be recovered from the applicant and, therefore, the interim protection granted earlier deserves to be confirmed. Hence, following order.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicant vide order dated 22.12.2021, is hereby confirmed and made absolute. In other words, if the applicant is not formally arrested, in the event of arrest of the applicant viz. Bhaurao @ Madhukar Popat Waghmare, in connection with Crime No.608/2021 dated 16.10.2021 registered with Shevgaon Police Station, Dist. Ahmednagar, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860, he be released on P.R. of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two sureties in the like amount.

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

4 He should cooperate with the investigation and shall attend the Shevgaon Police Station, Dist. Ahmednagar as and when called by the Investigating Officer, till filing of charge sheet.

5 Criminal Application No.250 of 2022 stands disposed of.

(Smt. Vibha Kankanwadi, J.)