

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1038 OF 2022
WITH
INTERIM APPLICATION NO.2276 OF 2022

Marzina Akhtari Khatib .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.833 OF 2022

Khan Ishtiyahq Ahmed .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.854 OF 2022

Sarvesh Vijay Shukla .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.A.Karim Pathan for the Applicant in ABA/1038/22.

Ms.Janhavee Joshi for the Applicants in ABA/833/22 and ABA/854/22.

Mr.S.H.Yadav, A.P.P. for the State/Respondent.

API S.H.Raut, Dindoshi Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 18th JULY, 2022

P.C:-

ANTICIPATORY BAIL APPLICATION NO.1038 OF 2022

1. By a detailed order dated 19/04/2022, the applicant was protected from arrest by referring to the accusations faced by her. It is not in dispute that the applicant reported to the Investigating Officer, as directed.

2. The learned A.P.P., on instructions of the Investigating Officer, who is present in the Court, states that the recovery of the mobile phone is to be done from the applicant, as it is alleged by the complainant that his phone was snatched from him. When the complaint is carefully read, the allegation about removal of phone from the custody of the complainant is attributed to one Tariq Khan. Therefore, the said recovery cannot be attributed to the present applicant. The Investigating Officer is not correct in saying that mobile phone is to be recovered from the present applicant.

3. In the wake of the accusations faced and, since the applicant has co-operated in the investigation, order dated 19/04/2022 is made absolute. The applicant shall, however, continue to render her co-operation in the investigation.

4. In view of the disposal of the application, interim application does not survive and stands disposed off.

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5. The applicant, who is one Khan Ishtiyaq Ahmed, has been referred to in the F.I.R. as Advocate A.A.Khan.

By order dated 06/04/2022, the applicant was admitted to protection by recording the case of the prosecution that the complainant was taken to the office of Mr.A.A.Khan, a practicing Advocate and he and his son, assaulted him and forcibly obtained his signatures on some documents.

The applicant has reported to the Investigating Officer, as directed.

6. The learned A.P.P. states that the custodial interrogation of the applicant, who is a lawyer, is necessary because the shoe with which he is alleged to have assaulted, is to be recovered. It is surprising that for recovery of a shoe, the Investigating Officer desires custodial interrogation, particularly, when,

there are no injuries sustained by the complainant and the allegations of documents being prepared, are faced by one Tariq Khan, who is already released on bail.

7. In the wake of the above, order dated 06/04/2022 is made absolute. The applicant, however, shall continue to render his co-operation.

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8. Considering the limited role attributed to the applicant that he drove Maruti Ritz vehicle in which the complainant was carried towards Oberoi Mall, he was admitted to interim protection by order dated 06/04/2022.

9. Even assuming that the version of the complainant is true and correct, except stating that the applicant drove the car, there is no role attributed to him. The Investigating Officer is still desirous of having his custody. He is reminded of the fact that merely because the non-cognizable offence has been registered, it is not necessary that he shall effect arrest, unless and until the custodial interrogation is warranted. In the present case, considering the limited role attributed to the applicant, I do not think that his custodial interrogation is warranted.

The order dated 06/04/2022 is made absolute. The applicant, however, shall continue to render his co-operation in the investigation.

(SMT. BHARATI DANGRE, J.)