

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

ANTICIPATORY BAIL APPLICATION NO. 339 OF 2023

1. Ravikant Kashinath Bapatle
2. Arjun Murli Pawar

..APPLICANTS

VERSUS

State of Maharashtra and Others

..RESPONDENTS

**WITH
ANTICIPATORY BAIL APPLICATION NO. 345 OF 2023**

Manojkumar Subhashrao Mothe

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. D.S. Bansude, Advocate for applicants in ABA/339/2023

Mr. K.P. Rodge, Advocate for applicant in ABA/345/2023

Ms. R.P. Gour, A.P.P. for respondents

Mr. S.P. Urgunde, Advocate for assist to A.P.P.

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CORAM : R.G. AVACHAT, J.

DATE : 11th APRIL, 2023

PER COURT :

1. Both these applications under Section 438 of Code of Criminal Procedure are being decided by this common order since the applicants therein claim to have an apprehension of being arrested in connection with Crime No. 63 of 2023 registered with AUSA Police Station, Dist. Latur for the offences punishable under Sections 307, 327, 395, 397, 147, 148, 149 and 506 read with Section 34 of the Indian Penal Code ('I.P.C.').

2. Heard. Perused First Information Report ('F.I.R.') and related police papers.

3. F.I.R. has been lodged pursuant to the order passed in terms of Section 156(3) of Code of Criminal Procedure ('Cr.P.C.'). It has been alleged in the F.I.R. that the informant - Bhimashankar is a resident of village Hasegaon, Tq. Ausa, Dist. Latur. He is a Chairman of "Vetaleshwar Education Institute". Applicant - Ravikant herein runs one Ashram at Hasegaon itself. Applicant - Arjun is the driver of applicant- Ravikant and Applicant - Manojkumar is the Director of said Ashram. There is land Gut No.372 in village Hasegaon. Both, the applicant - Ravikant and the informant - Bhimashankar own five acres of land each in the said gut number. Both of them run their institutes thereat.

4. The incident took place by 10:00 a.m. on 15th May, 2021. The informant's driver - Santoh Mane was entering with the vehicle in the premises of Rajiv Gandhi Polytechnic Institute, Hasegaon. The applicants and co-accused came there in an ambulance and white Swift Dezire car. They picked up quarrel with the informant's driver over parking the car at the middle of the road. Applicant-Ravikant and co-accused including the other applicants herein were armed with *katti*, sticks, iron rods, etc. They started assaulting the informant's driver. Applicant-Ravikant threw *katti* towards Santosh Mane with an intention to kill him. Co-accused-Manojkumar, one of

the applicants assaulted Santosh Mane with an iron rod. They were asking to call their employer (informant). The informant, therefore, went there. He noticed that applicant - Ravikant and some of the co-accused including the applicants herein occupied seats in the informant's car. Others armed with sticks were present around the car. Applicant - Arjun caught hold collar of the informant and made him sit in the back seat of the car. Applicant - Ravikant was about to assault the informant with a *katti*, the informant caught hold of the *katti*. As a result thereof, he suffered injury to his hand. Applicant - Ravikant run *katti* over the informant's shirt. The shirt got torn. The informant suffered bleeding injury. It has also been alleged that the informant was robbed of gold bracelet. The informant immediately rushed to the police station and lodged oral report. It was not taken cognizance of. On the contrary, applicant - Ravikant lodged a false report against the informant and some others. The informant had, therefore, approached the Court of law for obtaining anticipatory bail, but failed. Ultimately he surrendered to the police.

5. Since the police did not take cognizance of the oral report lodged by the informant, a written report was submitted to the Superintendent of Police and the concerned Police Inspector. Since the same was also not taken cognizance of, an application was preferred to the Court of J.M.F.C., whereon order under Section 156(3) Cr.P.C. came to be passed.

6. Learned counsel for the applicants would submit that the informant cries wolf. The applicant is a bachelor. He is in social service. He runs one "Sevalaya" (service center) for H.I.V. infected children. Those children are his family. They are eighty in number. On the given day it was applicant - Ravikant and his associates, who were assaulted by the informant and his associates. Applicant - Ravikant suffered grievous injuries. He had been an indoor patient. The informant picked-up a quarrel on one or the other reason. A false and afterthought complaint came to be lodged only with a view to give a counterblast. The crime is registered against the informant at the instance of applicant - Ravikant. According to them, there is delay of little over twenty months in lodging of the complaint. Learned counsel, therefore, urged for grant of the application.

7. Learned A.P.P. and learned counsel for the informant would, on the other side, submit that a civil dispute is pending over land in Gut No. 372. The photographs of the incident were adverted to indicate the applicant's associates were armed with *katti*. Injury certificates of the informant and his associates were also brought to the notice of this Court to suggest they suffered number of injuries. According to learned counsel, informant's vehicle was about to be set ablaze. Weapons of assault are to be recovered. It was an attempt on life of the informant. If the applicants are granted bail, they would again indulge in similar crimes. Both of them, therefore, urged for rejection of the applications.

8. Considered the submissions advanced. Admittedly, some incident took place on 15th May, 2021 at village Hasegaon. Applicant - Ravikant lodged the F.I.R. pertaining to the said incident. Informant herein - Bhimashankar and his associates are the accused therein. Informant - Bhimashankar was unsuccessful in securing anticipatory bail. He had, therefore, to surrender. He was in jail in connection with the said crime for long. It is only in September 2021 i.e. after four months of the alleged incident, the informant filed a written complaint to the Superintendent of Police and concerned Police Inspector. Since it was not taken cognizance of, an application under Section 156(3) of the Cr.P.C. was filed in December 2022 i.e. twenty months after the alleged incident. Learned counsel for the applicants have, therefore, every reason to contend an exaggerated and colourful version of the alleged incident has been introduced in the F.I.R. The applicants are in fact the victims. Just to make out a defence in a prosecution of the informant and his associates, a false F.I.R. was lodged.

9. Since there is considerable delay in approaching the Court of law, this Court has every reason to agree with the submissions of learned counsel for the applicants that a colourful and exaggerated version of the alleged incident has been introduced. Applicant - Ravikant was in fact the victim of the crime. True, there are some injury certificates indicating informant - Bhimashankar and some others suffered injuries. The said injuries are simple in nature. The allegation that the informant was robbed of his gold bracelet

appears to have been introduced only with a view to ensure the applicants are arrested. Suffice it to say that on consideration of the entire material on record and there being delay of about twenty months in lodging of the report, this Court finds it to be the case fit for grant of anticipatory bail.

10. In view of above, following order :-

ORDER

- (I) Both the applications are allowed.
- (II) In the event of arrest of the applicants, in connection with Crime No. 63 of 2023 registered with AUSA Police Station, Dist. Latur for the offences punishable under Sections 307, 327, 395, 397, 147, 148, 149 and 506 read with Section 34 of the Indian Penal Code, the applicants be released on executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with surety in the like amount.
- (III) Applicant - Ravikant shall not enter village Hasegaon for next three months.
- (IV) If the applicants indulged in any criminal activity, bail granted to them is liable to be cancelled.
- (V) The applicants shall appear before the investigating officer, as and when required for the investigating purpose.
- (VI) The applicants shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)