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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.379 OF 2023

Ramesh s/o Vishwambhar Parsewar ... APPLICANT

VERSUS

The State of Maharashtra & anr. ... RESPONDENTS

.....
Mr. V.S. Kadam, Advocate for applicant
Ms. R.P. Gaur, A.P.P. for respondents, assisted by
Mr. M.V. Ghatge, Advocate for original informant
.....

WITH

CRIMINAL APPLICATION NO.1358 OF 2023 IN
ANTICIPATORY BAIL APPLICATION NO.379 OF 2023

Kamal w/o Kundan Patravali ... APPLICANT

VERSUS

Ramesh s/o Vishwambhar Parsewar & ors. ... RESPONDENTS

.....
Mr. M.V. Ghatge, Advocate for applicant
Mr. V.S. Kadam, Advocate for respondent No.1.
Ms. R.P. Gaur, A.P.P. for respondents No.2 & 3
.....

WITH

ANTICIPATORY BAIL APPLICATION NO.408 OF 2023

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Sangram Harishchandra Rane ... APPLICANT

VERSUS

The State of Maharashtra ... RESPONDENT

.....
Mr. P.S. Dighe, Advocate for applicant
Ms. N.T. Bhagat, A.P.P. for respondent, assisted by
Mr. M.V. Ghatge, Advocate for original informant
.....

WITH

**CRIMINAL APPLICATION NO.1360 OF 2023 IN
ANTICIPATORY BAIL APPLICATION NO.408 OF 2023**

Kamal w/o Kundan Patravali ... APPLICANT

VERSUS

Sangram Harishchandra Rane & ors. ... RESPONDENTS

.....
Mr. M.V. Ghatge, Advocate for applicant
Mr. P.S. Dighe, Advocate for respondent No.1.
Ms. R.P. Gaur, A.P.P. for respondents No.2 & 3
.....

WITH

ANTICIPATORY BAIL APPLICATION NO.409 OF 2023

Krishna s/o Rajendra Shukla ... APPLICANT

VERSUS

The State of Maharashtra & anr. ... RESPONDENTS

.....
Mr. A.C. Darandale, Advocate for applicant
Ms. N.T. Bhagat, A.P.P. for respondents, assisted by

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Mr. M.V. Ghatge, Advocate for original informant

.....

WITH

**CRIMINAL APPLICATION NO.1364 OF 2023 IN
ANTICIPATORY BAIL APPLICATION NO.409 OF 2023**

Kamal w/o Kundan Patravali

... APPLICANT

VERSUS

Krishna s/o Rajendra Shukla & ors.

... RESPONDENTS

.....

Mr. M.V. Ghatge, Advocate for applicant

Mr. A.C. Darandale, Advocate for respondent No.1.

Ms. R.P. Gaur, A.P.P. for respondents No.2 & 3

.....

CORAM : R.G. AVACHAT, J.

DATE : 12th APRIL, 2023

ORDER :

Heard. Criminal Application Nos.1358/2023,
1360/2023 and 1364/2023 are allowed. The original informant
is permitted to assist learned A.P.P.

2. These three applications under Section 438 of the
Code of Criminal Procedure are being decided by this common
order since the applicants therein claim to have apprehension of
arrest in connection with one and the same Crime i.e. Crime
No.0034/2023, registered with Nanded (Rural) Police Station for

the offences punishable under Sections 143, 146, 147, 149, 323, 327, 447, 109, 504, 506 of the Indian Penal Code and section 151 of the Maharashtra Police Act.

3. The First Information Report (F.I.R.) has been lodged by one Smt. Kamal Patravali on 21/1/2023. It has been averred in the F.I.R. that, her father Marotrao Nalge owned a plot admeasuring 15686 sq.mtrs. in M.I.D.C. A shed admeasuring 4000 sq.ft. was erected on the said plot. Her father Marotrao died in 2018. One Anil Rathod was given the shed on lease. She (informant) used to visit the plot frequently. On 18/1/2023, she had been to the plot. It was about 2.30 p.m. With the assistance of her labours, machinery of Shri Anil Rathod could be removed. By that time, it was about 8.30 p.m., outside the gate of her Company, a crowd gathered. Some of them pelted stones on the main gate of the Company. One of them climbed the gate and entered the factory premises. That fellow was armed with a car spanner. He attempted to assault her with the spanner. She moved a bit to avoid the assault successfully. Shri Sayyed Muzaffar and Balaji Kadam, who were present with the informant, overpowered that person. The informant then made a phone call for police help. She even started making video shooting of the incidence. From the

window of the entrance gate of her Company, she looked outside to find Ramjatan Mandal (co-accused) and 10 – 15 men and women gathered together. They were pelting stones at the gate. It was only with a view to unauthorisedly take possession of the plot/ Company premises. Some of them claimed that the plot belongs to Ramesh (applicant in A.B.A. No.379/2023). Persons outside the gate were asking the person who had entered the premises to break open the gate. When the informant was making a video shooting through her cell phone, one of them snatched away the cell phone and handed it over to another one who was present there. Persons in the crowd were hurling abusive words. Meanwhile, a car came. One person alighted therefrom. The informant realised that he was Ramesh Parsewar (applicant in A.B.A. No.379/2023). He asked the persons gathered there to pull the informant out of the Company premises. He further said that the original owner has passed away; the informant is not the only successor to him. He was instigating others to forcibly take possession of the plot/ Company premises.

4. It has further been averred that, the applicant Sangram (in A.B.A. No.408/2023) and one Pandurang Nalge have prepared false documents and were assisting Ramesh

Parsewar.

5. The informant has appeared through her Advocate. An affidavit along with certain documents and photographs have been placed on record. A CCTV footage was also brought to the Court in a pen drive. This Court watched the same for a while. The Court also went through the photographs of the incidence. A chronology of the incident and the talk of the accused persons was also placed on record. The same suggests the culprits were abusing. Applicant Ramesh Parsewar appeared at the scene of offence. He talked to someone (police officer) and gave the very cell phone to the police staff present there to talk to the officer whom the call was made. According to the learned counsel, the applicant Ramesh Parsewar was friendly with the police staff present at the site. He also claimed to have acquaintance with higher police officials. So far as regards applicant Sangram (in A.B.A. No.408/2023) is concerned, the learned counsel for the informant would submit that, although he was not present at the site, record indicates that, he was continuously in contact with the main accused. He was instigating them to forcibly dispossess the informant of the plot/ Company premises in M.I.D.C. According to learned counsel, the applicant Krishna (in A.B.A. No.409/2023) was the person

who snatched away the cell phone of the informant and gave it to the driver of the applicant Ramesh Parsewar. According to him, custody of all the applicants is required for seizure of cell phone, spanner and vehicles used in commission of the crime. According to learned counsel, it was only with the grace of God the informant did not lose possession of the plot/ Company premises. He, therefore, urged for rejection of the applications.

6. The learned A.P.P. reiterated the submissions of the learned counsel for the intervener/ informant.

7. The learned counsel for the applicants would submit that, the applicant Sangram was not at the site. Sangram's wife is real sister of the informant. Deceased Marotrao was survived by more than two Class-I heirs. All of them inherited his property including the said plot in M.I.D.C. According to learned counsel, there is delay of three days in lodging of the F.I.R. When police personnel were present and had it been a serious offence, even one of the police officials present thereat could have lodged an F.I.R., if really a cognizable offence took place. According to them, a small incidence has been blown out of proportion. According to learned counsel, custodial interrogation of the applicants is not warranted. The learned counsel for the applicants, therefore, urged for allowing the

applications.

8. Considered the submissions advanced. Perused the F.I.R. and the related papers. Also perused the photographs of the incidence. There is three days delay in lodging of the F.I.R. Even one of the police officials present thereat could have lodged the F.I.R. at the earliest. True, the learned counsel for the informant has a reason to contend that the applicant Ramesh Parsewar is an influential person. The photographs of CCTV footage indicate that he appeared in a car at the factory gate. He had a talk with police official present there. He even uttered something to question as to why the informant was not removed. According to the applicants, the deceased Marotrao had agreed to sell the said plot to applicant Ramesh Parsewar. An agreement for sale has been executed. According to learned counsel for the informant it is a forged document. A suit for specific performance could have been filed had the document been genuine. The learned A.P.P. informs that, Sections 465, 467, 471 of the Indian Penal Code have still not been invoked. If those came to be invoked, it would be a matter of documentary evidence and whether the so called agreement for sale is genuine or forged one, could be decided by a Civil Court.

9. It is true that, the photographs and the CCTV

footage do indicate that, some persons including applicant Krishna (in A.B.A. No.409/2023) had gathered outside the gate of the Company premises. It also appears that they had been there with a view to forcibly take possession of the site/ plot/ Company premises. Fortunately, the informant could contact police on time. Some police staff arrived. Happening of serious offence, thus was prevented. All the offences registered against the applicants except offence under Section 327 are bailable one. Section 327 of the Indian Penal Code appears to have been invoked since the informant was relieved of her cell phone. It is not known as to why the informant took three days to lodge the F.I.R. It is not clear from the CCTV footage that it was the present applicant Krishna who snatched away the cell phone of the informant and handed it over to someone, who is said to be the driver of applicant Ramesh Parsewar. All in all, this Court finds that, custodial interrogation of the applicants, in the facts and circumstances of the case, is not warranted. The applicants have been protected. Fortunately, the applicants and others have been unsuccessful in dispossessing the informant of the plot/ Company premises. The applicant Sangram was admittedly not at the site. Although he might have been in contact with other applicants and persons present at the site, it is just difficult to assume that he was instigating them to

dispossess the informant.

10. For all the aforesaid reasons, this Court finds it a case to grant the applicants anticipatory bail. The applications are thus allowed, confirming the orders granting the applicants interim protection.

11. The applicants shall not tamper with the prosecution evidence and shall appear before the investigating officer as and when required for the purpose of investigation.

(R.G. AVACHAT, J.)

fmp/-