

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 519 OF 2023

Dattatraya s/o Dagadu
Gavhane @ Gavane & another

Applicants

Versus

The State of Maharashtra

Respondent

Mr. R. G. Hange, Advocate for the applicants.
Mr. V. S. Badakh, APP for the State.

CORAM : R. M. JOSHI, J.
DATE : 30th JUNE, 2023.

PER COURT :

1. Applicants apprehend arrest in connection with Crime No. 0129/2023 registered with Georai Police Station, Tq. Georai, Dist. Beed for offences punishable under Sections 353, 341, 379, 143, 147, 149, 504, 506, 188 of the Indian Penal Code.

2. Informant is the Circle Inspector. He claims that on 24th March, 2023, at around 8.00 pm, he intervened one tempo containing two brass of unauthorised sand. The driver of the tempo was not having any permit to carry the same. The driver also refused

to name the owner of the vehicle. Thereafter the informant along with Talathi occupied the said vehicle and they started towards Talathi office. Before they could reach there, one Scorpio bearing No. MH 12 MP 1984 came to the spot and obstructed the said tempo to proceed further. Informant and his colleague were manhandled and were pulled out of the said vehicle and thereafter the said vehicle was driven away. On the basis of this, offence came to be registered against the applicants.

3. Learned counsel for the applicants states that applicants are not named in the First Information Report and merely the Scorpio jeep is owned by the applicants, their involvement in the crime cannot be inferred.

4. Learned APP opposed the said contention by stating that reference of Scorpio jeep owned by the applicants is sufficient to show their involvement in the crime. He further states that there are criminal antecedents against the applicants. In addition thereto, he places reliance on the identification parade conducted wherein both the applicants were identified by the informant. In response to this,

learned counsel for the applicants states that pursuant to the directions

issued by this Court, applicants have attended the concerned police station atleast on 13 occasions and therefore possibility of applicants being shown to the informant/witness cannot be ruled out.

5. Perusal of the First Information Report shows that according to the informant, he and the witnesses were manhandled and were pulled out of the vehicle. There is however nothing on record to show any injury sustained by them. Thus, there is only evidence of identification parade against the applicants and this Court prima facie finds substance in the contention of learned counsel for the applicants about the possibility being created to enable the witnesses to see the applicants before identification parade. Nothing is to be recovered at the instance of the applicants. Appropriate direction to applicants to remain present before the Investigating Officer once in a week till filing of the charge-sheet will be sufficient to take care of the requirement of the Investigating Officer for investigation remained, if any.

6. In view of above, application is allowed in terms of the interim order with a condition that they shall attend the concerned police station once in a week.

(R. M. JOSHI)
Judge

dyb