

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

ANTICIPATORY BAIL APPLICATION NO. 772 OF 2023

SACHIN S/O NAMDEO NEMANE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Lukhe Arjun Raosaheb
APP for Respondents : Mr. V.S. Badakh

CORAM : R.M. JOSHI, J.
DATE : 12th June, 2023

PER COURT :

1. Applicants are apprehending arrest in connection with FIR No. 266 of 2023, registered with Ambad Police Station, District Jalna, for the offences punishable under Sections 143, 147, 323, 324, 327, 504 and 506 of IPC.
2. Informant Nandkishor gave information to the police on 17th April, 2023 at 1.51 a.m. in respect of the incident occurred at 15th April, 2023 at about 01:00 p.m. According to him, on that day he was proceeding to Georai Court with his younger brother Mahadeo, with cash of Rs. 7 lakhs out of which sum of Rs. 6,50,000/- was to be deposited in the Court by way of settlement. It is alleged that they were going on Motor Cycle bearing registered no. MH 20 FQ 8134. Just before Bhokarwadi Malewadi

toll plaza at the distance of about 50 meters, applicants came in the car and they obstructed the informant. It is alleged that they assaulted informant and Mahadev and took away cash of Rs. 7 lakhs.

3. Learned counsel for the applicant states that there is delay in lodging FIR and that the contention of the informant is contradicted by the witness who has allegedly admitted informant and injured in Ghati hospital. Thus according to him, there is reason to believe that this is a case of false implication.

4. Learned APP opposed the application with contention that the informant had sustained injuries and the injury certificate indicates occurrence of the incident as alleged in the FIR.

5. Perusal of the First Information Report shows that according to the case of the informant on 15th April, 2023, he was going to the Georai Court along with his brother on Motor Cycle. The registration number to Motor Cycle is also been given in the report. It is alleged that the applicant came to the spot in the car and they assaulted informant and his brother and, thereafter, assaulted them and snatched money. This contention, however, gets falsified with the statement of Vilas Kharat who states that

informant and his brother were proceeding on foot and at that time this witness had given them lift in his four wheeler. He further states that the said four wheeler was stopped by two cars and persons occupying these vehicles, were abusing informant and witness. It is further stated by this witness that there was pelting of stone on them and, therefore, injury was caused to informant - Nandkishor. He, however, does not state anything about actual assault caused by anyone on them or about any money being snatched. This statement of Vilas recorded by the Investigating Officer as well as his statement recorded under Section 164 of Cr.p.c. makes the report of informant unbelievable. In the light of this fact, non-lodging of immediate FIR also creates doubt about its genuineness.

6. In such circumstances, liberty of the applicant deserves to be protected. Direction to them to remain present before the Investigating Officer shall be sufficient for further effective investigation. The application is allowed in terms of interim order dated 16th May, 2023.

[R.M. JOSHI, J.]

SPChauhan