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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3352 OF 2022**

Sunil @ Kalwa Harful Singh ...Applicant
vs.
State of Maharashtra ...Respondent

WITH
INTERIM APPLN. NO.835 OF 2023 IN ABA NO.3352 OF 2022

Lakhi Narayandas Makhija ...Applicant
vs.
State of Maharashtra ...Respondent

WITH
INTERIM APPLN. NO.217 OF 2023 IN ABA NO.3352 OF 2022

Rajendra Jagannath Shrikhande ...Applicant
vs.
State of Maharashtra ...Respondent

Mr. Ganesh Gole with Sagar Kurseja i/b Mr. Bhavin Jain for the Applicant.
Mr. Amit Singh for the Applicant in IA No.835/2023.
Mr. Monish R. Bhatia for the Applicant in IA No.217/2023.
Mr. H. J. Dedhia APP for the Respondent-State.

CORAM : S. M. MODAK, J.

DATED : 29TH MARCH 2023

P. C. :

1. Heard learned Advocate for the Applicant in Anticipatory Bail Application, learned Advocate for respective Applicant in Interim

Applications and learned APP for the Respondent-State.

2. This Court has already protected the Applicant from arrest as per order dated 5th December 2022. The present Applicant is not named in the FIR filed by the injured registered on 30th October 2022 under sections 326, 120B, 201, 504, 506, 427 read with 34 of IPC. Two unknown persons have assaulted the first informant. Two persons are also arrested. They are one Nadeem and Subhan.

3. The prosecution claims that during investigation, the name of present Applicant is disclosed, who has conspired with the assailants to assault the first informant. Whereas according to learned Advocate for the Applicant, in fact, the first informant is a person belonging to controvertial character and he is in the habit of lodging complaints to public authorities against certain persons and subsequently extorting money from those persons.

4. He has filed affidavits of Manoj Panjwani, Neeraj Makhija and Deepak Sainani. Two of the associates of the first informant, approached the Applicant on 2nd November 2022 and demanded certain amount for settling the complaints.

5. The first informant wants to intervene in this proceedings, that's why Interim Application No.835 of 2023 is filed. It is allowed.

There are certain annexures consisting certain photographs. According to learned Advocate for the first informant these photographs pertain to the incident in question, that is, dated 29th October 2022, and also in respect of incident that took place in intervening night of 5th December 2022 and 6th December 2022.

6. It is claimed that the Applicant has threatened one of witness-Rajesh Makhija. Certainly, the first informant can file documents which are related to the offence in question, however, it pertains to subsequent incident. He needs to file an affidavit and without that the Court cannot consider the documents. Learned Advocate for the intervenor is at liberty to file additional affidavit.

7. There is one more twist to the matter. According to the prosecution, the Applicant has confessed about crime to one witness Mr.Rajendra Shrikhande on 29th October 2022, in mobile communication and statement of that witness is recorded. Prosecution wants to rely upon this statement in order to show involvement of the Applicant. This is in addition to call details report showing communication between the Applicant and arrested Accused No.2 and CCTV footage of the incident in question thereby showing the Applicant in nearby vicinity.

8. Whereas this witness Rajendra Shrikhande has also filed Interim Application No.217 of 2023 for intervention in this Application. He claims that in fact, police have twisted the facts mentioned in the statement and that's why he wants to intervene in the Application. He is not disputing about recording of statement.

9. Learned APP submitted that if the intervenor wants to protest that statement, the forum is different. It is true that the Applicant's witness is neither victim nor the first informant. It is very well true that the prosecution relies upon this statement in order show involvement of the Applicant. So considering peculiar facts and circumstances of the case, Interim Application No.217 of 2023 is allowed.

10. Interim protection to continue till the next date.

11. Matter be kept on **19th April 2023.**

[S. M. MODAK, J.]