

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 888 OF 2021

1. Ankush S. Amale
 2. Rajendra R. Lohate
 3. Rajendra D Sukale
alias Rajesh D Sukale
 4. Yogesh M Amle
 5. Vishnu S Sherkar
 6. Sampat G Lohote
- ...Applicants
- V/s.

The State of Maharashtra

...Respondent

WITH

INTERIM APPLICATION NO. 1183 OF 2021

Mr. Satyam Nimbalkar a/w Mr. Abhishek Arote and Mr. Omkar R. Chitale for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : N.R. BORKAR, J.
DATE : 10.02.2023.

P.C. :

. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. This Court on 25th March, 2021 passed the following order:

“1. The Applicants are seeking anticipatory bail in connection with C.R.No.431/2020 registered with Otur Police Station, Pune, under sections 143, 147, 149, 150, 323, 354, 393,448, 451, 452, 504, 506 r/w 34 of the Indian Penal Code.

2. The FIR is lodged by the victim herself.

This FIR is lodged pursuant to the order passed by the learned JMFC, Junnar, directing investigation u/s 156(3) of Cr.P.C. The first informant had filed a private complaint. It is her case that, on 26/05/2020, the accused including the present Applicants entered the informant's hotel. They outraged her modesty by tearing her gown and touching her inappropriately. Specific roles are given to different accused. There are allegations that she was threatened that she would be paraded in the village without clothes. There are allegations that some ornaments etc. were taken away. On this basis, FIR is registered.

3. Heard Mr. Satyam H. Nimbalkar, learned counsel for the Applicant, Mr. Anil Bobade, learned counsel for Intervenor and Mr. Anil Bobade, learned APP for the State.

4. Learned counsel for the Applicant submitted that the Applicants are respectable residents of the village. Applicant Nos.1 to 3 are members of Grampanchayat. The present FIR is result of the raid conducted on the hotel of the informant on 26/05/2020. During that raid, police had found that the informant and her husband were indulging in the business of selling illicit liquor. Some liquor was stored below the ground. He submitted that the FIR against the present Applicant is filed as a counterblast. The police officers were very much present during the entire raid and therefore it would be very easy to establish that the Applicants have not committed this offence. The statements of police officers present during that raid are important in that behalf.

5. Learned APP produced the papers of investigation carried out so far. But the investigation papers support the Applicant's

case. There are police witnesses and they have stated that no such incident as alleged by the informant had taken place.

6. Learned counsel for the Intervenor submitted that the informant was a project affected person and she had come to that village to earn her livelihood. But the villagers were not happy with her and her family. Her family was treated as outsiders and various complaints were lodged against her family. He submitted that the offence had taken place on that day. There is CCTV footage which is referred to by the learned Magistrate in his order u/s 156(3) of Cr.P.C.

7. Learned APP does not have instructions about the CCTV footage which is referred to by the learned Magistrate. She is seeking time to answer this issue. Therefore, today, I am adjourning the matter. However, considering the submissions made by learned counsel Mr. Nimbalkar and also taking into account the investigation carried out so far. The Applicants have made out a case for interim protection.

8. Hence, the following order :

ORDER

(I) In the event of their arrest in connection with C.R.No.431/2020 registered with Otur Police Station, Pune, Police Station, till the next date, the Applicants are directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only)each, with one or two sureties each, in the like amount.

(ii) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.

(iii) This order shall operate till 04/05/2021.

(iv)Stand over to 04/05/2021

3. This Court has already recorded in the above order that there are police witnesses and they have stated that no such incident as alleged by the informant had taken place. It appears that the learned Magistrate before ordering investigation had viewed the CCTV footage and according to the learned Magistrate it shows assault on one person. But the allegations against the applicants are of outraging the modesty of the informant in respect of which the witnesses have stated that no such incident had taken place. Considering the facts and circumstances of the case, I am inclined to allow the present application. The interim order dated 25th March, 2021 passed by this Court is hereby confirmed.

4. The applicants shall attend the concerned police station as and when called by the investigation officer and shall co-operate in the investigation.

5. The interim application for intervention is disposed of.

[N.R.BORKAR, J.]