

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1805 OF 2023

Rasik Premji Boricha and Ors. ...Applicants
vs.
The State of Maharashtra ...Respondent

**ALONG WITH
INTERIM APPLICATION NO. 2299 OF 2023**

Vipin Lalji Karia ...Intervenor
In the matter between
Rasik Premji Boricha and Ors. ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr.Abad Ponda Senior Advocate a/w Mr.Shailesh S. Kharat–
Advocates for Applicant.
Mr.H.J.Dedhia – APP for Respondent-State.
Mr.Nitin Sejpai a/w Ms.Pooja N. Sejpai and Ms.Akshata Desai –
Advocates for Intervenor-Complainant.
Mr.Nitin Neminathrao Dhoke – API – Vartaknagar Police Station –
Thane City.

CORAM : S. M. MODAK, J.

DATED : 6TH JULY 2023

P. C. :

1. Heard learned Senior Advocate Shri.Ponda for the Applicants,
learned Advocate Shri.Sejpai for the First-Informant and learned APP

Officer from Vartaknagar Police Station is present.

2. The Court of Additional Sessions Judge – Thane has rejected the pre-arrest Bail Application filed by these Applicants on 7th June, 2023. It is in respect of an offence registered on 25th May, 2023 under Sections 325, 364-A, 365, 504, 506 (2) read with 34 of Indian Penal Code, 1860 [“IPC”]. The First-Informant has alleged that 7.00 p.m., to 8.30 p.m., on 22nd May, 2023, he was abducted in white colour Innova car. He was taken to the bungalow and these Applicants along with two unknown persons have beaten him with the help of a wooden stick and fist and blows. They have prepared a video and then dropped him at Nitin junction.

3. The FIR is filed on 25th May, 2023. First-Informant in his Intervention Application has lodged various documents. It consists of one complaint made to Commissioner of Police – Thane dated 30th May, 2023. It also consists of certain photographs of First-Informant showing injuries.

4. When the Court of Additional Sessions Judge has rejected the Anticipatory Bail Application, he has viewed the video from C.C.T.V, footages. It was relied on by the Applicants in order to show that in fact, the First-Informant was not abducted but voluntarily he

accompanied the Applicants in the Innova car. It is referred in Para No.21 of the said order. The photographs from those footages are also annexed to the Application.

5. In the meantime, the First-Informant has realized that he has lodged the complaint as he has lost his mental equilibrium and there were heated exchange of words and that is why, he has lodged the complaint. He has explained in Para No.4, 5 and 6 of the affidavit filed today as to how, he accompanied the Applicants in white colour Innova car. It is taken on record and marked as Annexure-X. Now, he claims that he do not want to prosecute the FIR any more and he has decided to give no objection for quashing the FIR. Learned Senior Advocate Shri.Ponda also submitted that the ingredients of Section 364-A of IPC is not disclosed. Learned Advocate Shri.Sejpal explained how are the relationships in between the First-Informant on one hand and Applicants on the other hand. All of them claims that they hails from the village Rav, Taluka : Rrapar, District : Kutch, Gujarat State. Whereas, learned APP submitted that the photographs show the injuries. He fairly submitted that the white colour Innova car is produced so also the pen drive in which the entire incident is recorded.

6. He also submitted that looking at the contents of the affidavits, it suggests that the First-Informant has lodged a false FIR.

7. Learned Advocate Shri.Sejpal submitted that even prior to registration of the offence, his client had given a letter to the Police narrating the incident and also informed that he do not want to prosecute. It is submitted that yesterday also, the First-Informant Vipin has also given a letter to Vartak Nagar Police Station informing that he do not want to prosecute the FIR. Copy of the said letter is taken on record and marked as Annexure-Y. The First-Informant Vipin is present today in Court. Learned APP explained that this letter was given and afterwards he approached the Police and insisted for recording of FIR.

8. Considering the above circumstances, I do not think that case for custodial interrogation is made out. Law will take its own course so far as pending FIR is concerned. Hence, I pass the following order :-

ORDER

- (i) Application is allowed.
- (ii) In the event of an arrest in connection with C.R. No. 177 of 2023 registered with Vartak Nagar Police Station – Thane City for the offences punishable

under Sections 325, 364-A, 365, 504, 506 (2) read with 34 of IPC, the Applicants namely : (i) Rasik Premji Boricha ; (ii) Nitin Murji Faria and (iii) Anil Asdhir Faria be released on furnishing personal bond and surety bond of Rs.15,000/- each.

- (ii) They are directed to give attendance to Vartak Nagar Police Station – Thane City on 17th July and 24rd July, 2023 from 10.00 to 12.00 noon and to cooperate the Police as and when called.

9. The Application is disposed of in the aforesaid terms.
10. The Interim Application is also disposed of.
11. These are my *prima facie* observations.
11. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]