

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

ANTICIPATORY BAIL APPLICATION NO. 2013 OF 2023

1. Ravindra Budhaji Pawar
2. Rakesh Kashinath Jadhav
3. Prakash Pandurang Vekhande
4. Alpesh Ravindra Patil
vs.
The State of Maharashtra

...Applicants
...Respondent

Mr. Ashok M. Saraogi - Advocate for the Applicants
Mr. S. R. Agarkar - APP for the Respondent-State
Dilip Baraph – Wada Police Station

CORAM : S. M. MODAK, J.

DATE : 28th JULY, 2023

P. C. :-

1. Heard learned Advocate for the Applicant and learned APP for the Respondent – State. Officer from Wada Police Station is present.

2. There were two offences registered with the same Police Station. One is offence bearing C.R. No. **241 of 2023** against these four Applicants, two other named accused and three unknown persons. It is under Sections 327, 143, 147, 149, 323, 504 and 506 of the Indian Penal Code. Later on the Police have added Section 326 of the Indian Penal Code. There is **one more** offence registered at the

instance of wife of Applicant No. 1 by name Ravina at **C.R. No. 242 of 2023**. It is on the same date i.e. 19/06/2023, at about 5.02 a.m.. It is under Sections 354, 323, 504, 506 read with 34 of the Indian Penal Code.

3. The first informant in the earlier offence mentions three more accused persons. The incident in respect of which the present Applicants are seeking anticipatory bail took place on 18/06/2023 at about 7.00 p.m.. The first informant was sitting outside his grocery shop. At that time, these Applicants alongwith others came in Xylo Car and Innova Car. They threatened the first informant and Applicant-Nitin and co-accused-Amit assaulted him with the help of wooden rod, snatched his chain and tried to snatch golden kada. When mother came there to separate the quarrel, her golden mangalsutra was snatched. She sustained the injury below her right eye and threat was given to kill, if they will lodge the complaint.

4. Learned APP submitted that the first informant and his mother are injured and there are injury certificates. Doctor has opined that there was diminution of the vision to the victim Sunita. He submitted that the golden chain and mangalsutra are yet to be recovered. According to him, there are statements of the eye

witnesses who have narrated the involvement of the present Applicants.

5. Learned Advocate Shri Saraogi made two submissions:-

- a) The incident has not taken place in the manner alleged in the F.I.R. and in fact the first informant and his friend have uploaded the photographs on social media which shows that he was wearing golden chain and kada. They are on page nos. 30, 41 and 42.
- b) According to him, in fact the wife of the Applicant No. 1 was manhandled and her modesty was outraged. It is for the reason that on 18/06/2023 at about 6.30 p.m., they were doing some grounding work. At that time, the accused Tejas, Rakesh, Kishore and Tushar came and they beat Amit Prakash Lokhande and they threatened him to stop the JCB. When the first informant-Ravina came there, accused-Tejas beat her and put a hand on shoulder and pulled her blouse and he also abused her in the filthy language. During that scuffle, her gold chain lost somewhere.
- c) According to him, the Police have favoured the first informant-Tejas and they have given different type of the treatment to the allegation of the removal of the golden chain. So to say the complainant Tejas has stated about removal of that chain and

mangalsutra. Whereas when it comes to mangalsutra of the first informant-Ravina, they not said that it was lost.

- d) Whereas according to him, her statement under Section 164 of the Criminal Procedure Code was recorded wherein she has narrated entire incident. It is true that statement is not before us because it is recorded in the different offence.
- e) In this case the offence under Sections 327 and 326 are non-bailable offence. If they will not there the question of the anticipatory bail will not arise.

6. Learned Advocate Shri Saraogi is right that Section 326 will be applicable only when there is permanent loss of the vision. I have read the statement of mother-Sunita recorded on 19/06/2023. She has nowhere stated that she has lost her vision. So also it is not mentioned in the certificate issued by the Doctor.

7. Section 327 of the Indian Penal Code mentions about causing voluntary hurt. It is for the purpose of extorting property or constraining sufferer to do any illegal act. It is submitted that there is no allegation that hurt is caused for the purpose of extorting the property or for other purpose mentioned therein. Whether the Police have applied that Section properly or not cannot be decided at this

stage.

8. When viewed from the angle of the custodial interrogation, what I find that two sticks are already recovered from the spot. So what remains is golden chain and mangalstura. In the photographs of the first informant which are produced, it shows that he had golden chain and kada. Therefore, the plea of alibi is taken by the Applicant No. 2-Rakesh cannot be considered at this stage . There are photographs on page nos. 34 and 35 which suggest that at that time he was at different places.

9. Considering the above circumstances *prima-facie* Section 326 is not applicable. Considering the circumstance that there is rival version to the incident, I think that the Police can certainly investigate the offence even if the condition to attend the Police Station is granted. Merely, because there are allegations about stealing of ornaments, it does not mean that the anticipatory bail application has to be rejected.

10. Considering the facts, I am inclined to grant anticipatory bail. Hence the Order :-

ORDER

- (i) Anticipatory bail application is allowed.

- (ii) In case of arrest in connection with C.R. No. 241 of 2023 registered with Wada Police Station, Palghar for the offence punishable under Sections 327, 143, 147, 149, 323, 504 and 506 of the Indian Penal Code, the Applicant No. 1-Ravindra Budhaji Pawar, Applicant No. 2. Rakesh Kashinath Jadhav, Applicant No. 3. Prakash Pandurang Vekhande and Applicant No. 4-Alpesh Ravindra Patil be released on furnishing Personal Bond and Surety Bond in sum of Rs. 25,000/- each.
- (iii) They are directed to give attendance to Wada Police Station on first and third Monday of every month from 10.00 a.m. to 12.00 noon until filing of the charge-sheet.
- (iv) Applicant shall not threaten the prosecution witnesses.
- (v) Needless to say, violating of the condition above will make the Applicants liable for cancellation of bail.

11. It is made clear that the these are my *prima facie* observations and the trial Court shall decide the case on its own merits without influenced by the observations made in this order.

12. Application is disposed of in the aforesaid terms.

13. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]