

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

ANTICIPATORY BAIL APPLICATION NO.395 OF 2023

1. Chandrakant Raghunath Chalke
2. Ankush Dattaram Kate
3. Jeevan Govind Ambre ...Applicants

Versus

The State of Maharashtra ...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.396 OF 2023**

Rajendra Dattaram Ambre ...Applicant

Versus

The State of Maharashtra and Anr. ...Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO.3609 OF 2022**

Asif Abdul Kadir Kacchi ...Applicant

Versus

The State of Maharashtra and Anr. ...Respondents

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Mr. Harshad Bhadbhade with Ms Shagufa Patil, Ms Swati Khot, Ms Arya Sapre for the Applicant in ABA/395/2023 and ABA/3609/2022

Ms Shweta Redij for the Applicant in ABA/396/2023

Mr. Nilesh Pawaskar with Ms Sudha Dwivedi for Respondent No.2.

Mr. R.M. Pethe, APP for Respondent-State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 25th APRIL, 2023.

P. C. :-

1. These are the applications under Section 438 of the Cr.P.C.

filed by the aforesaid Applicants apprehending their arrest in C.R. No.326 of 2022 registered with Khed Police Station, District-Ratnagiri, for the offences punishable under Sections 380, 436, 454, 457, 461 r/w. 34 of the IPC.

2. Learned counsel for the Applicants states that the First Informant had contested Grampanchayat Elections against the Applicant-Chandrakant Chalke and that he could secure only 8 votes and that he has falsely implicated Chandrakant Chalke due to political vendetta. He further states that there is an inordinate delay in lodging the FIR. He submits that there is no prima facie material to prove the involvement of the Applicants in the said offence.

3. Learned APP states that the co-accused Santosh Mahadik had entered into an agreement with another co-accused Munna Singh to sell the machinery, which originally belonged to Kiranlal Manilal Mehta. Learned APP states that the statement of Munna Singh prima facie shows the involvement of the Applicants in commission of the crime.

4. Learned counsel for the First Informant submits that the

Applicants and the co-accused had entered into conspiracy to commit theft of the machinery of two companies. He submits that though the State Bank of India had taken possession of both the units, they have not lodged any complaint against the Applicants and this fact also shows that the officers of the SBI are also involved in the conspiracy. Learned counsel for the First Informant further states that the First Informant is presently elected as a Councillor. He further submits that the First Informant has personally seen the co-accused committing theft.

5. Learned counsel for the First Informant further submits that one Vishal Goshalkar has raised false tenancy claim over the said land. The fact that the Applicant-Chandrakant is supporting the said claim prima facie reveals that the attempt is only to grab the public land. Referring to paragraph 8 of the order of the Sessions Court, learned counsel submits that there is sufficient material to prove the involvement of the Applicants in commission of the crime.

6. Learned counsel submits that the Applicant-Asif, who claims to have purchased the scrap material has not disclosed the name of the person to whom the said scrap material has been sold. He further

submits that the crime can be thoroughly investigated only through custodial interrogation.

7. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

8. The aforesaid crime was registered pursuant to the FIR lodged by Vaibhav Vilas Ambre. The facts narrated in the FIR prima facie reveals that two companies viz. M/s. Indo Dutch Metalco Chemicals and M/s. Mishal Zinc Industries India Pvt. Ltd. situated at Plot Nos. C-41 and C-42 in Lote MIDC, were owned by one Kiran Manilal Mehta. Said Kiran Mehta shut down both the units, which were financed by State Bank of India. It is stated that said owner has absconded without repaying the loan to the tune of Rs.125 crores. Hence, recovery proceedings were initiated and possession of both the units has been taken over by the SBI.

9. The First Informant claims that sometime in the month of November-2019 he learnt that the machinery from the said units was being stolen. He claims that on 30/11/2019 when he visited the spot, he saw some unknown persons cutting the machinery with the gas

cutter and loading it in a truck with the help of a crane. He further states that again on 13/12/2019 he had seen the co-accused Munna Singh, employee of the original owner committing theft of the machinery. He has stated that again on 15/12/2019 he had seen Munna Singh and others committing theft of the machinery. The First Informant has alleged that said Munna Singh and the co-accused Asif and several other political leaders had entered into a criminal conspiracy to commit theft of the machinery. Based on the FIR lodged by Vaibhav Ambre, the aforesaid crime came to be registered.

10. It is pertinent to note that the theft was allegedly committed between November-2019 to December 2019. The FIR came to be lodged only on 20/11/2022. The FIR does not offer any explanation for the delay in setting the law in motion.

11. It is on record that the First Informant had contested elections of Gram Panchayat, Lote held in the year 2020. It is stated that he lost the election while the Applicant won the election and has been elected as a Sarpanch of the Gram Panchayat, Lote. In such circumstances, the possibility of implicating this Applicant due to political vendetta cannot be ruled out.

12. Be that as it may, the FIR does not name the Applicant-Chandrakant Chalke and Rajendra Ambre, who is member of Zilla Parishad -Lote. Apart from the bare statement in the FIR that the co-accused and some political leaders are involved in criminal conspiracy, there is no other prima facie material to show the involvement of these Applicants in commission of the crime.

13. The records further reveal that by agreement dated 19/11/2019 Munna Singh had agreed to sell the machinery from the said units to the co-accused Santosh Mahadik. It is stated that the Applicant-Asif Kacchi had purchased the scrap material from the co-accused Santosh Mahadik on payment of Rs.3,00,000/-. The material on record does not prima facie indicate that this Applicant was involved in a criminal conspiracy.

14. It is also to be noted that though SBI is stated to have taken possession of the two units and the machinery, it has not lodged any report for theft of the machinery. Till date, the Investigating Officer has not recorded the statements of the officers of the SBI. No explanation is forthcoming for not recording such statements. It is also pertinent to

note that the Applicants are on interim bail since 09/02/2023. It is stated that the Applicants have reported to the Investigating Officer and they have been interrogated. In such circumstances, no case is made out for custodial interrogation.

15. Hence, the applications are allowed on the following terms and conditions:

(i) In the event of arrest of the Applicants in C.R.

No.326 of 2022 registered with Khed Police Station, District-Ratnagiri, the Applicants shall be released on bail on furnishing PR bonds in the sum of Rs.25,000/- each with one or two sureties to the like amount;

(ii) The Applicants shall report to the Investigating Officer as and when required by the Investigating Officer;

(iii) The Applicants shall not tamper with the prosecution evidence and or influence the witnesses in any manner.

(iv) The Applicants shall keep the Investigating Officer informed of their current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

16. The applications stand disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)