

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.35/2023

Salim Khan Turab Khan .vs. State of Maharashtra

WITH

CRIMINAL APPLICATION (ABA) NO.36/2023

Mangesh Vitthalrao Chore .vs. State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. D. Dharmadhikari, Advocate for applicants.

Mr. S. S. Doifode, A.P.P. for non applicant – State.

CORAM : ANIL L. PANSARE, J.

DATE : APRIL 10, 2023.

On 19.01.2023, following order was passed

- “1. *Heard.*
2. *During the course of argument, learned counsel for the applicant submits that applicant is entitled for anticipatory bail because the informant has lodged two FIRs with two different police stations for one and the same crime. With the assistance of learned counsel for the applicant and learned APP, I have gone through both the FIRs.*
3. *First FIR is dated 2nd January, 2023 registered at Sewagram Police Station. The crime has been committed between 15.15 hours to 15.30 hours and place of offence is near Mama Bhanja Darga on Nagpur to Tuljapur Highway. The allegations against the applicant are that he along with two others came in Fortunar Car bearing Registration No.MH-28-CZ 9358 and assaulted the informant by means of stick. The co-accused Salim made an attempt by means of sword, however, the informant ran away and hide himself in the surrounding agricultural land. Accordingly, FIR came to be registered, vide Crime No.2/2023 under Section 307 read with Section 34 of the Indian Penal Code.*

4. The informant, after two days i.e. 4th January, 2023 lodged yet another FIR bearing Crime No.5/2023 at Police Station, Selu. The crime has been allegedly committed between 14.15 hours to 14.45 hours on 2nd January, 2023 (to mean half an hour prior to FIR that has been lodged on 2nd January, 2023). The place of crime is near Adiram Dhaba, Kelzaar. The allegations are that the applicant and three others came by Chiverlet car bearing Registration No.M-02CD 7735. Thus threatened and assaulted the informant and snatched away gold chain weighing 09 grams. Accordingly, FIR came to be registered for offences punishable under Sections 294, 341, 394, 506 read with Section 34 of the Indian Penal Code.

5. It is worth mentioning that in the first FIR, the informant has not only made serious allegations of attempt to commit murder but has also stated that during the scuffle he lost his gold chain. As against in the second FIR, he blamed applicant and others of snatching his gold chain.

6. Thus, prima facie, there appears two contrary statements by the informant, that too, before two police stations

7. Issue notice to the respondent, returnable on 2.2.2023.

8. Learned APP waives notice on behalf of the respondent.

9. In view of above, I pass following interim order:

(i) In the event of arrest in Crime No. 02/2023 registered with Police Station, Sewagram for the offences punishable under Sections 307, 294, 506 read with Section 34 of the Indian Penal Code and Sections 4 and 25 of the Arms Act, the Applicant –Mangesh s/o Vitthalrao Chore be released on bail on he executing PR Bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.

(ii) *The Applicant shall remain present before the Police Station concerned on every Monday between 11.00 to 2.00 p.m.”*

2. Learned A.P.P. submits that the allegations made in two First Information Reports remain the same as observed by this Court in previous order. Thus, it is not a case of the prosecution that informant has committed inadvertent mistake in reporting the crime. That means, the informant intentionally made incorrect statement.

3. Further, on 09.03.2023, following order was passed:

“Heard.

2. The learned APP has relied upon Page No.57 of the paperbook, which is a chart showing criminal antecedents of the applicant Mangesh Chore in ABA No. 36/2023. The chart is reproduced below :

<i>Sr.No.</i>	<i>Police Station</i>	<i>Crime No.</i>	<i>Under Sections</i>
<i>1</i>	<i>Wardha</i>	<i>255/2009</i>	<i>309 IPC</i>
<i>2</i>	<i>Wardha</i>	<i>258/2009</i>	<i>376,420,354 IPC</i>
<i>3</i>	<i>Kharangana</i>	<i>34/2009</i>	<i>386,341, 34 IPC</i>
<i>4</i>	<i>Wardha</i>	<i>496/2021</i>	<i>500,505(1)(b) (3) IPC</i>
<i>5</i>	<i>Selu</i>	<i>767/202</i>	<i>324, 504, 506 IPC</i>
<i>6</i>	<i>Selu</i>	<i>825/2022</i>	<i>3,7 of Essential Commodities Act</i>
<i>7</i>	<i>Selu</i>	<i>05/2023</i>	<i>394,341, 294, 506, 34 IPC</i>
<i>8</i>	<i>Sevagram</i>	<i>02/2023</i>	<i>307, 34 IPC</i>
<i>9</i>	<i>Wardha</i>	<i>26/2023</i>	<i>109, 120B,384, 385 IPC</i>

3. The learned Advocate for the applicant submits that except at Sr. Nos. 7,8 and 9, the applicant has been acquitted in all the cases. Despite such status,

the Investigating Officer, who is present in the Court, has instructed the learned APP to rely upon this chart, to contend that the applicant has criminal antecedents. Thus, in a way, the learned counsel for the applicant has suggested that the false statement is made by the Investigating Officer to contend that the applicant has criminal antecedents.

4. The I.O. is directed to file an affidavit in this regard. The affidavit should disclose as to whether the applicant has been acquitted in the first six offences and if so why the status is not placed on record and why those cases are relied upon as criminal antecedents of the applicant.

5. Interim order to continue in both the matters. Stand over to 23.03.2023.”

4. In response, the investigating officer has filed affidavit mentioning therein that inadvertent mistake has been committed showing criminal antecedents against the applicants.

5. Learned A.P.P. now submits that the stick allegedly used in the crime is to be recovered at the instance of Mangesh Chore. Learned counsel for applicants submits that two versions of the informant clearly indicate that the applicants have been falsely implicated. According to him, applicant Mangesh and informant are in same profession. They are media reporters and there is rivalry between the two.

6. Prima facie, it appears that the informant has made incorrect statement while lodging FIRs. Nevertheless, the investigation will have to be completed to unveil the truth and for that purpose, cooperation of the applicants is necessary.

7. In the circumstance and considering the fact that the informant has lodged two FIRs apparently, making incorrect statements, the applicants are entitled for the relief. Hence, the following order.

ORDER

- (i) The applications are allowed.
- (ii) In the event of arrest in Crime No.2/2023 registered with Police Station, Sewagram, District Wardha for the offences punishable under Sections 307, 294, 506 read with Section 34 of the Indian Penal Code, 1860 and Sections 4 and 25 of the Arms Act, 1959 applicants - Salim Khan Turab Khan and Mangesh Vitthalrao Chore, be released on bail on they furnishing P.R. Bond in the sum of 25,000/- each with one surety each in the like amount.
- (iii) The applicants shall attend the Police Station, Sewagram, as and when called by the investigating officer, till filing of the charge-sheet and shall cooperate in the investigation.
- (iv) The applicants shall, at the time of execution of bond, furnish their addresses and telephone/mobile number(s) to the Investigating Officer and to the Court concerned and shall not change the same till the final disposal of the case.
- (v) The applicants shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.
- (vi) The applicants shall not obstruct or hamper the police investigation and shall not play mischief with the evidence collected or yet to be collected by the Police.

(vii) The applicant shall maintain law and order.

(viii) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The applications are disposed of.

(Anil L. Pansare, J.)

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