

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

CRIMINAL APPLICATION (ABA) NO.297 OF 2023

Sanjay @ Sanju Rama Atar
Vs.

State of Maharashtra Through Police Station Officer Police Station, Chikhali, District
Buldhana

AND

CRIMINAL APPLICATION (ABA) NO.298 OF 2023

Madhao s/o Bhagwan Jethe
Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Chikhali, District
Buldhana

AND

CRIMINAL APPLICATION (ABA) NO.299 OF 2023

Jitendra s/o Ratiram Jagdale
Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Chikhali, District
Buldhana

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

Court's or Judge's orders

Shri P. B. Patil, Counsel for applicants.
Shri A. M. Kadukar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 16/06/2023

1. The present applications are filed for grant of anticipatory bail in connection with Crime No.226/2023 registered with Police Station, Chikhali for the offence punishable under Sections 324 and 395 of the Indian Penal Code by the applicants Sanjay @ Sanju Rama Atar, Madhao Bhagwan Jethe and Jitendra Ratiram Jagdale.

2. The applicants are apprehending arrest at the hands of police as crime is registered on the basis of report lodged by Ravindra Madanrao Mahajan on an allegation that on 05.04.2023 he along with other boys were part of a religious procession, at about 6.30 p.m. when they were proceeding in the said procession of Goddess, at the relevant time, present applicants along with other co-accused came in front of them. There was hot altercations between them. The present applicants and other accused started assaulting the informant as well as the other members of their group. At the relevant time, co-accused Arjun Atar assaulted him by means of wooden stick on his head and applicant in application No.297/2023 namely Sanju Atar removed amount of Rs.61,000/- from his packet. Due to the assault, he sustained grievous injury. In the said incident other two boys sustained the injuries. They immediately shifted to the hospital. On the basis of the said report, police have registered the offence against the present applicants.

3. As per the contention of the present applicants due to the altercation of the words alleged incident has taken place. In fact, the incident regarding assault and snatching of the amount of Rs.61,000/- had not taken place, however this report is lodged after thought with false allegations. Now custodial interrogation of the present applicants are not required,

as injured person already discharged from the hospital. Nothing is to be recovered from the present applicants. Now, instigation is practically completed, therefore, their custodial interrogation is not required.

4. The said applications are strongly opposed by the State on the ground that present applicants approached to the informant and other boys with intention to assault them. The recitals of the FIR shows that, the present applicants and other co-accused are arrived at a spot along with a deadly weapons and assaulted the informant and other prosecution witnesses. Their custodial interrogation is required. Hence, the bail applications are rejected.

5. Heard learned Counsel Shri Patil for the applicants. He submitted that the allegation of snatching of the amount Rs.61,000/- itself is false one. The alleged incident has taken place due to the altercations between the two groups. In fact, it is a sudden quarrel. Admittedly, there is no allegation against the applicants i.e. Madhao Bhagwan Jethe and Jitendra Ratiram Jagdale that they were holding any weapons. There is no allegation that they have assaulted any prosecution witnesses who are injured in the said incident, therefore their custodial interrogation is not at all required. As far as the allegation regarding the snatching of Rs.61,000/- is concerned, there is no material on record to show that

the informant was carrying the said amount, therefore his custodial interrogation is also not required. All the applicants are ready to abide by all the conditions. Considering that, injured are already discharged from the hospital and no weapons are assigned to them. They be released on anticipatory bail in the event of their arrest.

6. Learned APP Shri Kadukar for the respondent/State vehemently submitted that considering the allegation against the applicant Sanju Atar that he has snatched Rs.61,000/-. His custody is required to recover the said amount. The said amount belongs to the group i.e. one Mitra Mandal who have collected the amount for the expenses of the procession of the Goddess, therefore his custody is required. Hence, his application deserves to be rejected. As regards the other two applicants is concerned, he fairly submitted that admittedly there is no allegation that they were carrying any weapons, however for interrogation purpose their custody is required.

7. Having heard both the sides and on perusal of the FIR, admittedly there is no allegation against Madhao Jethe and Jitendra Jagdale that they were carrying any weapons. Therefore, they are already protected by grating ad-interim anticipatory bail. Considering the role attributed to them their custodial

interrogation is not required as nothing is to be recovered from them. General allegation is made against them in the FIR. However, as regards the allegation against the applicant who has filed an application bearing (ABA) No. 297/2023 is concerned, there is specific allegation against him that he has snatched the amount of Rs.61,000/- which is collected by the informant and another boys for incurring the expenses for the procession of the Goddess. Therefore, it is necessary to recover said amount and hence his custody is required.

8. Considering the investigation papers admittedly the custodial interrogation of the present applicants namely, Madhao Jetha and Jitendra Jagdale is not required, therefore Criminal Application (ABA) No.298/2023 and Criminal Application (ABA) No.299/2023 deserves to be allowed. While the Criminal Application (ABA) No.297/2023 filed by Sanjay @ Sanju Atar deserves to be rejected. Accordingly, I proceed to pass following order.

(i) The Criminal Application (ABA) No.298/2023 and Criminal Application (ABA) No.299/2023 are allowed.

(ii) The Criminal Application (ABA) No.297/2023 is rejected.

(iii) The applicants namely, Madhao Bhagwan Jetha and Jitendra Ratiram Jagdale are released

(6)

39.40.41.ab.297.298.299.2023

on anticipatory bail in the event of their arrest in connection with crime No.226/2023 registered with Police Station, Chikhli for the offence punishable under Sections 324 and 395 read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.15000/- each with one solvent surety in the like amount.

(iv) The applicants shall attend Police Station as and when required for investigation purpose.

(v) The appellants shall furnish their mobile/phone number, along with their address with address proof. Additionally, the applicants shall submit the names of their two nearest relatives along with their address with address proof, before the Investigating Officer.

(vi) The applicants in Criminal Application (ABA) No. 298/2023 and Criminal Application (ABA) No.299/2023 namely, Madhao Bhagwan Jetha and Jitendra Ratiram Jagdale shall not induce, threaten or pressurize any witnesses who are connected with the alleged crime.

All the applications are disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate