



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 689 OF 2024 WITH
CRIMINAL APPLICATION NO. 2474 OF 2024
IN ABA/689/2024

Akkabai W/o Joginder Bhosle And Others

VERSUS

The State Of Maharashtra

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Mr. S. G. Magre, Advocate for Applicants

Mrs. K. R. Jamdhade, APP for Respondents

Mr. P. B. Gapat, Advocate for Applicant/Informant

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CORAM : R.M. JOSHI, J

DATE : JULY 01, 2024

PER COURT :

1. This Court has directed learned Registrar (Judicial) to submit report as to whether the present Anticipatory Bail Application shall lie before this Court in view of the Standing Orders passed by the Hon'ble the Chief Justice. According to the learned Registrar (Judicial) this application would lie before this Court. Hence, taken up for hearing.

2. Considering the nature of allegations, Criminal Application No. 2474/2024 is allowed. Permission is granted to informant to assist APP.

3. This is second bail application of Applicant

Nos. 2 and 5, namely, Shivdatt Bhosale and Shivkishan Bhosale and first bail application of other applicants seeking pre-arrest bail in connection with Crime No. 119/2023 registered with Muktainagar Police Station, Dist. Jalgaon for the offences punishable under Sections 395, 420, 506 read with Section 34 of IPC.

4. Informant Shaikh Yunus Shaikh Kadar Badshaha has reported police about the incident occurred on 17.04.2023 stating that he along with his colleagues came from Tirupati to Muktainagar for the purchase of Sulemani Stone which he believed would bring prosperity for him. He states that he had contact with co-accused Krushna and it was agreed between them to purchase the said stone for Rs. 60,000/-. It is alleged that Krushna and one lady met them and they brought them to the place of incident wherein other accused came and assaulted him and also robbed of cash as well as gold and silver ornaments.

5. Learned Counsel for the Applicants submits that now the investigation is over and charge-sheet is filed against one of the accused Krushna who was arrested by the police. It is his further submission

that nothing is recovered even from Krushna which shows that there is no substance in the allegation. He drew attention of the Court to the affidavit dated 05.04.2024 filed by the Informant before the Additional Sessions Judge stating that no incident as narrated in the First Information Report has occurred on 17.04.2023. He claims that he only met Krushna and that day was not subjected to any illegal activities. It is, therefore, his contention that having regard to the aforestated fact it is a fit case to protect the liberty of the Applicants.

6. Learned Counsel for the Informant though initially sought leave of this Court to assist APP, however, later on it is turned out that he is supporting Applicants. Be that as it may, it is his submission that Informant has filed affidavit about no such incident having been occurred on 17.04.2023. He records his no objection for grant of anticipatory bail.

7. Learned APP opposed the said contention by drawing attention of the Court to the specific statements made in the FIR. She also drew attention of

the Court to the evidence collected by the Investigating Officer which indicates that the informant did sustain injuries in the said incident. She also argues that the FIR is lodged in April, 2023 whereas belatedly after a year the Informant retracts from the said report and hence, in these circumstances, the said affidavit need not be taken into consideration.

8. Perusal of the FIR shows that the Informant has specifically narrated the incident occurred on 17.04.2023 wherein he had stated about he being assaulted by the accused persons. *Prima facie*, said statement of the Informant gets support from the medical certificates which shows that there was swelling on the back side over the neck. It is thus clear that some incident has certainly occurred on 17.04.2023 in which he was assaulted. Thus, this Court finds no reason to believe that no incident at all occurred on that day. Apart from this, there is specific allegation made against accused that Informant and others were robbed of money and ornaments. Admittedly, one of the accused, namely, Krushna is

arrested, however, nothing is recovered from him. It is thus clear that recovery is yet to be effected in this crime.

9. As far as affidavit filed by the Informant is concerned, specific query was made to the learned Counsel for the Informant as to the reason for which the said affidavit is filed after a period of one year of occurrence of the incident. He was unable to respond to query and justify the same.

10. Having regard to the evidence on record, this Court is of the view that the affidavit filed by the Informant is on the face of it false and hence, no cognizance thereof is required to be taken. Having regard to the nature of offence and circumstances in which the same is committed and also in view of the fact that the investigation is yet to be completed for want of recovery of the robbed articles, it is not a fit case to grant anticipatory bail. Hence, Application stands rejected.

(R. M. JOSHI, J.)

Malani