

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

ANTICIPATORY BAIL APPLICATION NO.433 OF 2023

Gaurav Sunil Gole Applicant
Versus
The State of Maharashtra Respondent

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WITH

ANTICIPATORY BAIL APPLICATION NO.434 OF 2023

Anup Avinash More Applicant
Versus
The State of Maharashtra Respondent

Mr. Aniket Nikam, Advocate a/w. Amit Icham i/b. Piyush
Toshniwal for the Applicants.

Ms. Mahalakshmi Ganapathy, APP for the Respondent-State.

Ms. Ruby Shaikh, Advocate a/w. Imran Sheikh, Faraz Khan for
the Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 24th JANUARY, 2024

P.C. :

1. Both these Applications are decided by this
common order because they arise out of the same registered
offence.

2. The Applicants are seeking anticipatory bail in connection with C.R.No.11/2023 dated 5.1.2023 registered at Dehu Road Police Station, Pimpri Chinchwad, Pune under sections 452, 341, 392, 323, 141, 143, 144, 504, 506 of IPC.

3. Heard Mr. Aniket Nikam, learned counsel for the Applicants, Ms. Mahalakshmi Ganapathy, learned APP for the Respondent No.1 and Ms. Ruby Shaikh, learned counsel for the Respondent No.2.

4. The FIR is lodged by one Mukhtar Ahmad Munna Khan. He has stated that his father had purchased a land from one Dattatraya Bhagwat in the year 1982 at Chinchwad. On 4.1.2021 Dattatraya's sons and their friends came to his house. The Applicant Anup More told him that he had purchased that property from Dattatraya's son Ashok and he asked the informant to vacate that property. He threatened him. He was accompanied by about 20 persons. The other Applicant Gaurav Gole was with them. On 5.1.2021, Gaurav called him to a political party's office. He also threatened the informant. The incident in question took place on 17.1.2021. The Applicants

and other 20 – 30 persons with four women came to his house. At that time the informant was not in his house. The unknown persons, present Applicant Gauarav and others entered the house. They abused the informant's daughter and wife. One of them pulled a gold-chain. They used one JCB Machine to break the gate in front of the informant's house. They picked up articles and then threw them on the highway. The informant went to Dehu Road Police Station and informed about the incident to the Inspector. He went to his house with some police officers. At that time some labourers were doing some work near his house. But because of presence of the police, no further incident took place. The FIR is based on these allegations.

5. Learned counsel for the Applicants submitted that this FIR is lodged with malafide intentions to deny the property to the rightful owners. There is substantial unexplained delay in lodging the FIR. The allegations are vague. No specific roles are attributed to either of the accused. They are protected by an ad-interim order dated

13.2.2023 in these Applications. Therefore, after about a year in this background their custodial interrogation is not necessary.

6. Learned APP produced the investigation papers, some photographs and the injury certificates of the informant's wife and daughter.

7. Learned counsel for the first informant submitted that the manner in which the offence was committed show that the Applicants are protected by the political parties and, therefore, there is every possibility that they may create further trouble.

8. I have considered these submissions. There is substance in the submissions of learned counsel for the Applicants that the FIR is lodged much belatedly. Learned counsel invited my attention to the informant's statement recorded by the police on 14.12.2021. That statement mentions that for the incident dated 17.1.2021 the informant had given his complaint immediately, but, no steps were taken.

Thereafter he gave another complaint on 14.7.2021. Even then no steps were taken. After that he filed a Civil Suit in the Court of Civil Judge, Senior Division, Shivaji Nagar, Pune. This statement was recorded on 14.12.2021. Even thereafter no FIR was lodged. The informant then approached the Magistrate's Court and filed this complaint on 17.1.2022. Learned Magistrate directed the police investigation under Section 156(3) of Cr.P.C. vide his order dated 15.10.2022 and thereafter this FIR was lodged on 5.1.2022. In any case it is quite clear that the informant has not immediately lodged the FIR. There is substantial delay in lodging the FIR. It has remained unexplained. He could have immediately approached the Magistrate's Court for order under Section 156(3) of Cr.P.C. All these dates show that the informant had not taken immediate steps.

9. The injury certificates of the informant's wife and daughter show that they had suffered some nail marks and blunt trauma. This shows the petty nature of the offence. The Applicants are on interim protection for about a year in the

present Applications. Therefore, in this background their custodial interrogation will not serve any purpose. At the same time, the apprehension expressed by learned counsel for the first informant can be taken care of by imposing certain conditions.

10. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.11/2023 registered at Dehu Road Police Station, District Pimpri Chinchwad, Pune, the Applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) The Applicants shall attend the concerned police station on every Sunday till filing of the charge-sheet.
- (iii) Anticipatory Bail Applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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