

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2460 OF 2024

Sachin Zumberlal Gaikwad @ Patil ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Aniket Vagal a/w. Mr. Kunal N. Pednekar for Applicant.
Mr. Prasanna P. Malshe, APP for Respondent-State.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 13, 2024

P.C. :

. Heard Mr. Vagal, learned counsel for the applicant and Mr.Malshe, learned APP for the respondent-State.

2. The applicant has approached this Court apprehending arrest in connection with FIR No.0289 of 2023 dated 01.09.2023 registered with Yeola City Police Station, District - Nashik Rural, for offences under Sections 323, 395 and 506 of the Indian Penal Code, 1860 (IPC), as also Sections 3 and 25 of the Arms Act, 1959.

3. The applicant is one of the five named accused persons in the present FIR. At the outset, it is pointed out that this Court granted anticipatory bail to co-accused person - Somnath Kachru Shinde @ Soma Shinde by order dated 29.07.2024, passed in Anticipatory Bail Application No.1993 of 2024.

4. The FIR was registered on the statement of the informant, who claimed that on 01.06.2023, in the context of purchasing a particular land, the accused persons took him and offered certain land and there was difference of opinion. The informant had taken cash amount with

him, which he had withdrawn from the bank account and at the time of the incident, while the applicant herein pointed a gun and threatened him, the other accused persons snatched away cash amount from him, amounting to Rs.7,03,400/-. It is stated that the applicant was scared of the accused persons, due to which, his health suffered and this led to delay in registration of the FIR.

5. The learned counsel for the applicant relies upon the reasoning recorded in the order dated 29.07.2024, granting anticipatory bail to co-accused - Somnath Kacharu Shinde. He further submits that in the present case, apart from the FIR being delayed, the allegation about snatching away of the cash amount is not against the applicant. There is no recovery from any of the accused persons, despite the fact that the charge-sheet is also filed.

6. On the other hand, the learned APP submits that when the aforesaid order was passed in favour of the said co-accused person, it was not brought to the notice of this Court that while the informant may not have had sufficient bank balance in his own bank account, but on the very date mentioned in the FIR, exact amount of Rs.6,53,400/- was indeed withdrawn from the bank account of his mother. It is submitted that since this vital information was withheld from this Court, certain observations were made in favour of the co-accused person. It is further submitted that the applicant has criminal antecedents and the statement of the informant that he was scared can be said to be a reasonable statement and therefore, delay in registration of the FIR ought not to be considered at this stage itself.

7. This Court has considered the rival submissions, as also the contents of the order dated 29.07.2024 passed in favour of the co-accused person. There is some substance in the contention raised by the learned APP that even though the applicant may not have had sufficient

balance for withdrawing the aforesaid amount from his account, on the date specified in the FIR, the documents on record indeed show that the informant had withdrawn the exact amount of Rs.6,53,400/- from the bank account of his mother. To this extent, the learned APP may be justified in contending that merely because the amount was not withdrawn from the bank account of the informant, the said fact cannot inure to the benefit of the applicant.

8. Nonetheless, the documents on record show that according to the informant, the incident occurred on 01.06.2023, when he was not only threatened but the aforesaid amount of Rs.7,03,400/- in cash was snatched away from him by the co-accused, while the applicant had pointed a gun towards him. This description of the incident clearly indicates that a huge amount of cash was taken away from the applicant on the date of the incident. Yet, the FIR was registered on 01.09.2023 i.e. after a period of three months. The only explanation found in the statement of the informant is that, after the incident, he was scared, and therefore, he could not cause the FIR to be registered. As noted in the order dated 29.07.2024 passed in favour of the co-accused person, this explanation appears to be tenuous.

9. This Court finds that a property deal contemplated between the parties appears to have gone wrong. A person deprived of a huge amount of Rs.7,03,400/-, *prima facie*, would not wait for three months to approach the police and this itself is a ground making out a *prima facie* case in favour of the applicant.

10. The co-accused person is already released on anticipatory bail. The applicant is ready to co-operate with the investigation and there does not appear to be any special reason to hold against the applicant and existence of criminal antecedents, in itself, cannot be a factor to hold against the applicant.

11. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0289 of 2023 dated 01.09.2023 registered with Yeola City Police Station, District - Nashik Rural, he shall be released on bail on furnishing PR Bond of Rs.50,000/- with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 18.09.2024 and thereafter as and when required by the investigating officer. He shall co-operate with the investigation;
- C. The applicant shall not contact the informant in any manner during the pendency of the investigation;
- D. The applicant shall not enter the jurisdiction of Kolgaon, Taluka - Yeola District - Nashik, during the pendency of the trial;
- E. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

12. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

13. The application is disposed of.

(MANISH PITALE, J.)