

MHPA010027162022



ORDER BELOW EXH.01
IN CRIMINAL BAIL APPLICATION NO. 936/2022
(Datta & Ors. Vs. State)

By this application filed under Section 438 of the Code of Criminal Procedure petitioners/accused namely (1) Datta s/o Vishnupanth Wagh and (2) Vaijnath s/o Manchakrao Bele have prayed for pre-arrest bail in connection with Crime No.181/2022 for the offences punishable under Sections 353, 307, 143, 147, 148, 328, 272, 273, 188 of the Indian Penal Code registered with Daithana police station.

02. I have perused application and the say of learned A.P.P. and Investigating Officer. I have also heard both the sides.

03. Case of the prosecution in brief is that informant namely Shivaji Ashroba Bomshete who is police constable on the post of driver attached to S.D.P.O Gangakhed lodged his report to police that on 06/08/2022 after receiving secret information that one pick-up vehicle would come with contraband Gutkha, they along with other police persons went near the Akhada (cattle-shed-cum-house) of Namdev Barakhude at Porwad road. At about 6.30 p.m. one Bolero pick up vehicle bearing No. MH 44 / U-0164 filled with Gutkha came there. They showed their identity card and asked them to take Bolero vehicle to the side of the road. At that time they inspected the said vehicle in the presence of panchas. At that time three boxes of RMD, 11 boxes of Rajniwas were found and they took the said Bolero pick up vehicle in their custody. At that time so many persons gathered there. Out of them Gajanan Barakhkude, Meera Barakhude obstructed them and

manhandled them. Namdeo Barakhude and other 10 to 12 persons obstructed and man-handled police constable Imran. At that time Sonu @ Dnyaneshwar, Dadarao Barakhude was telling the public to catch them and that he would run the vehicle on their body and that by saying so Sonu @ Dnyaneshwar Dadarao Barakhude started Bolero pick up vehicle with the intention to run the vehicle on their body in order to kill them and attempted to run the vehicle on their body and thereafter that person ran away with the vehicle. So on the report of the informant aforesaid crime is registered.

04. It is argued by learned advocate for petitioners/accused that name of the petitioners/accused is not there in the F.I.R. During the custodial interrogation of the co-accused name of the petitioners/accused is disclosed. However, the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad granted anticipatory bail to the co-accused and this Court also granted anticipatory bail to the co-accused namely Sudam Niloba Barakhude. It is, therefore, prayed that application may be allowed on the ground of parity.

05. However, it is argued on behalf of prosecution that there is involvement of the present in the said crime. Muddemal Property is required to be seized. Petitioners/accused are having criminal antecedents. If the application is allowed possibility of tampering with the prosecution witnesses can not be ruled out. It is therefore, prayed that application may be rejected.

06. Considering the nature of the allegations and the role attributed to the present petitioners/accused and the fact that their names are not there in the F.I.R. and that co-accused are granted

anticipatory bail by this Court as well as by Hon'ble High Court, I am of the view that petitioners/accused are entitled for pre-arrest bail. Hence, I pass the following order:-

ORDER

1- Application is allowed.

2- In the event of arrest of petitioners/accused namely (1) Datta s/o Vishwanath Wagh and (2) Vaijnath s/o Manchakrao Bele in connection with Crime No. 181/2022 of Daithana police station, they shall be released on bail on their executing P.R. bond in the sum of Rs.15,000/- (Rs. Fifteen thousand) each with one surety in the like amount each subject to following conditions:-

- i] they shall co-operate the Investigating Agency as and when called;
- ii] they shall not tamper with prosecution evidence or witnesses in any manner;
- iii] they shall attend concerned police station on every Saturday in between 11.00 a.m. and 01.00 p.m. for the period of one month.

3- Inform concerned police station accordingly.

Date : 12.10.2022

(A.A.A. Shaikh)
Additional Sessions Judge,
Parbhani.