

MHBH010007022023



Misc. Cri. Bail Appln. No. 201/2023

(Presided over by S. S. Shinde, Addl. Sessions Judge,
Bhandara)

- Applicants** :- 1. Mangesh Pundalikrao Thakre,
Age- 36 years, Occu. Pvt. Job,
R/o Plot No. 117, Umred Road,
Sarshwati Nagar, Bahadura,
Vihirgav, Nagpur,
Tah. & Dist. Nagpur.
2. Digambar Shriram Bisen,
Age- 33 years, Occu. Pvt. Job,
R/o Plot No. 42, Manavshakti
Nagar, Kharbi, Lay out,
Hudkeshwar, Nagpur,
Tah. & Dist. Nagpur.

VS

Non Applicant :- **State of Maharashtra,**
Through Police Station Officer,
Police Station, Sakoli,
Tah. Sakoli, Dist. Bhandara.

**APPLICATION UNDER SECTION 438 OF THE
CRIMINAL
PROCEDURE CODE FOR GRANT OF BAIL**

Shri.C.L.Vegad, Advocate for applicant.
Shri. V. B. Bhole, D.G.P. for the State.

ORDER BELOW EXH. 1

(Passed on this 30th day of May, 2023)

01. This is an application under Section 438(1) of

the Criminal Procedure Code (In short Cr.P.C.) for grant of anticipatory bail in CR. No. 252/2022 for offence punishable under Sections 399 and 402 of Indian Penal Code (In short I.P.C.) registered by Sakoli Police Station against applicant and others.

02. It is argued on behalf of the applicants that they are resident of Nagpur and doing private job. Further, it is alleged that offence is registered against them on the basis of information given by other accused in the alleged offence. They are innocent and not concerned with alleged offence. Police has never issued notice to them under Section 41 of Cr.P.C.. Further, charge sheet is filed in alleged offence before Judicial Magistrate, First Class, Sakoli. Further, they are shown as absconding accused in the alleged offence. Further, already incriminating articles has been seized and investigation has been completed. Therefore, their custodial interrogation is not necessary. They have apprehension that they may be arrested in the present offence.

03. It is further argued that though offences are registered against applicant No.2, as stated by investigating officer, it is observed by Hon'ble High Court that if there is no material on record in the crime in hand established a reasonable prima facie case, bail cannot be denied. Further, it is argued that already

other accused in the offence are released on bail. Therefore, on the ground of parity their application may be allowed. Hence, application may be allowed.

04. On the other hand, learned P.P. has filed his say vide Exh.7 and objected the application. It is argued on behalf of prosecution that applicants and other accused in the alleged crime were found making preparation to commit dacoity at the house of Dr. Balbudhe. Further, they were assembled with deadly weapons like iron rod, knife, chilli powder, cycle chain, nailon dor etc. There is direct evidence against applicants and offence is serious in nature. Further, though investigation is completed and charge-sheet is filed however, applicants are not interrogated. Accused are absconding since filing complaint against them. Moreover, their earlier application came to be rejected on 02.06.2022. If applicants are released on bail they may tamper the prosecution evidence and pressurize the prosecution witnesses. Hence, application may be rejected.

05. Perused application, say, documents filed on record and case diary. Heard both the parties. On perusing F.I.R. it appears that on 09.05.2022 at about 20.30 hours the informant received information that 7 to 8 persons were preparing for dacoity in Sakoli. Therefore, four squads of crime branch were prepared.

Accordingly, they proceeded towards place where applicant and accused in the alleged crime were gathered. Further, on reaching there they found there were 10 to 12 persons. As said persons were more in numbers than team members therefore, they had called additional force. On reaching additional force, they trapped said persons however, they escaped. Therefore, they were chased by the police and out of them 4 persons were arrested. Accused Komal Bankar, Suraj Jaiswal, Rameshwar Wadhaikar and Milind Gajbhiye were found on making inquiry with them they told names of other persons including applicants. Thus, it appears that applicants and other accused in the alleged offence were gathered with weapons with an intention to commit dacoity at the house of Dr. Balbude.

06. Further, on perusing case diary it appears that charge-sheet is filed on 08.07.2022. Applicants are shown as absconding accused Nos. 8 and 10 in the charge-sheet. Further, as per contention of applicants they had filed anticipatory bail application bearing No. 127 of 2022 which came to be rejected on 02.06.2022. Further, it is argued that now charge-sheet has been filed and there is change in circumstances therefore they have filed present application. Further, they have relied on the anticipatory bail application No.247/2022 which is decided on 16.09.2022 by my learned

predecessor wherein some of the accused have been granted protection of anticipatory bail.

07. Further, it is submitted on behalf of the applicants that though other offence has been registered against applicant No.2, in view of observations in criminal application No. 778/2021 (Pawan Nandkishor Shedani-vs- State, through Police Station Akot, District Akola). It has been observed by Hon'ble Bombay High Court Bench at Nagpur while deciding said criminal application that even though there is other offence is registered against the applicant, anticipatory bail cannot be denied, if there is no sufficient material to establish prima facie case in the present offence. It is pertinent to note that on perusing page No. 84 of case dairy. It appears that crime chart of applicant No.2 is filed. On perusing said chart, it appears that crime No. 3009/2009 for offence punishable under section 323, 294, 506 R/w 34 of Indian Penal Code, crime No. 231/2009 for offence punishable under section 324 R/w 34 of IPC, crime No. 126 / 2010 for offence punishable under section 143, 294, 506(B) and 448 of IPC at Hudkeshwar Police Station, Crime No. 3029/2015 for offence punishable under sections 3, 4 & 5 of Bombay Gambling Act at Imamwada police Station, Crime No. 3058/2016 for offence punishable under section 294 and 504 of IPC and Crime No. 622/2018 for offence punishable under

section 294, 506, R/w 34 of IPC at Nandanwan Police Station. Thus, it appears that there is criminal past antecedents against applicant No.2.

08. So far as applicant No.1 is concerned, there is no criminal past record against him. Moreover, name of applicant No.1 has been revealed during the investigation in the statement of other accused. Admittedly, investigation is completed and charge-sheet is filed. Even, other accused in the alleged offence has been released on bail. Therefore, I am of the view that custodial interrogation of the applicant No.1 is not required. However, as discussed above applicant No.2 is having criminal past record therefore, authorities relied on behalf of applicants are nor helpful and applicable to the facts of the present case. Further, considering nature of offence applicant No.1 is having apprehension that he may be arrested in the alleged offence. Therefore, I am of the view that applicant No.1 is entitled for protection of anticipatory bail. However, applicant No.2 is not entitled for the said protection. Hence, I proceed to pass following order :-

ORDER

1. Application is partly allowed.
2. In event of arrest, applicant No.1 Mangesh Pundalikrao Thakre be released on bail on

execution of personal bond of Rs. 25,000/- with one solvent surety of like amount.

3. The applicant is directed not to tamper the prosecution evidence and pressurize prosecution witnesses.
4. The applicant not to indulge into any illegal activities.
5. The applicant shall attend Court on given dates during trial.
6. Inform of the order through e-mail to the police station and counsel for applicants.

Date: 30/05/2023 **(S. S. Shinde)**
Additional Sessions Judge,
Bhandara.

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Mangesh Thakre -vs- State

CERTIFICATE

I affirm that the contents of this P.D.F. file order are
same, word to word, as per the original order.

Name of the Stenographer : A.J.Khobragade

Court's Name : Adhoc District Judge-1 & Additional
Sessions Judge, Bhandara .