

**BAIL APPLICATION NO. 173/2022****Digvijay Dyanand Surve Vs.****Islampur Police Station****ORDER BELOW Exh. 1**

The applicant/accused has filed this application under section 438 of the Cr.P.C. for grant of anticipatory bail in Crime No. 553/2022 for the offences punishable under sections 354, 354D, 509, 506, 34 of I.P.C. registered with Islampur Police Station.

2. It is the case of the prosecution that on 05/09/2022 informant Pradnya Vijay Chavan gave the statement to the police. As per the allegation of Pradnya Chavan since last one month accused Digvijay and Swapnil were taunting her and talking obscene with her on her mobile phone. On 03/09/2022, her brother Pruthviraj came to the house for Ganesh festival. He told this fact to his brother. Hence, her brother went to Digvijay Surve and Swapnil Surve for inquiry. At that time, these two persons and their colleagues assaulted her brother Digvijay. She further alleged that her brother lodged complaint to that effect. On the basis of his statement police has registered the crime against the applicant/accused.

3. Ld. A.P.P. Shri. Madake appeared and resisted the bail petition by filing his Say. He contended that, offence is serious against woman. Applicant accused are absconded since commission of offence. They have not co-operate the investigation. If accused released on bail, they will pressurize the

informant and witnesses and will commit cognizable offence. Investigation is in progress. Ultimately, he sought rejection.

4. Heard learned advocate Shri. V.M. Bamane for applicant/accused and APP Shri. Madake for the State.

5. Learned advocate for applicant/accused submitted that there is delay in lodging the FIR. One of the alleged accused Digvijay was present at his workplace in the company at the relevant time of alleged incident. As the accused Mrunal has filed the complaint against the informant Pruthviraj and his family members, hence to give the counter blast to their case brother of informant has filed the one another case. The informant party also filed present case against the accused wherein the crime is filed U/s. Section 354 of IPC. Learned advocate for accused has point out the material contradiction between both the FIRs filed by the informant and her brother. In support of his contentions he relies on following case law;

6. Kishan Singh Through Lrs. Vs. Gurpal Singh and others wherein Hon'ble Apex Court in para 21 observed that,

21. *Prompt and early reporting of the occurrence by the informant with all its vivid details gives an assurance regarding truth of its version. In case there is some delay in filing the FIR, the complainant must give explanation for the same. Undoubtedly, delay in lodging the FIR does not make the complainants case improbable when such delay is properly explained. However, deliberate delay in lodging the complaint is always fatal.*

7. Perused the three FIRs filed on record. FIR No. 549/2022 is filed on 04/09/2022 at about 16.03 by Mrunal Kamble. FIR No. 550/2022 is filed by Pruthviraj Vijay Chavan on 05/09/2022 at about 0.57. FIR No. 553/2022 is filed on 05/09/2022 at about 22.05 by Pradnya Vijay Chavan.

8. Thus, as per the contentions of Pradnya Chavan as accused Digvijay and Swapnil was harassing her, hence Pruthviraj had been to these persons for inquiry. At that time accused assaulted him. In this context I perused the FIR lodged by Pruthviraj. He is totally silent in his complaint about any harassment by accused to his sister Pradnya. In his whole FIR Pruthviraj has not ascertain the reason as to why accused has assaulted him.

9. Pruthviraj in his complaint alleged that when he brought to his house at 12.15, his brother told that accused persons came to his house and they have assaulted to him, his mother and sister. However, such allegations are absent in the present complaint given by informant Pradnya. Under such circumstance also the allegations made by the informant appears to be doubtful.

10. Thus, it appears from the record that accused Digvijay was in the company at relevant time of alleged last incident. As mentioned supra, there is a material contradiction on record about alleged incident. As per the case cited supra, delay in lodging the FIR which is fatal to the case of prosecution. The possibility of

false entanglement of the applicant accused can not be ruled out. Applicant/accused made out the prima facie case for grant of anticipatory bail. In result, I proceed to pass following order ;

**ORDER**

1. Application is hereby allowed.
2. In the event of arrest of applicants/accused, they be released on anticipatory bail on executing P.R. and S.B. of Rs.15,000/- each.
3. The applicants/accused shall attend the concerned police station before the concerned investigating officer on every Monday and Thursday, and also as and when the concerned investigating officer call for investigation on written requisition till filing of charge-sheet.
4. That applicant shall not be directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against them so as to dissuade them from disclosing such a facts to the court or to any officer.
5. Applicant shall not involve in any cognizable offence.
6. Applicants/accused shall co-operate the police for investigation.
7. Inform the concerned police station accordingly.

Date- 14/09/2022.

( Aniruddha Subhash Gandhi )  
Additional Sessions Judge, Islampur

**CERTIFICATE**

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

Name of the Stenographer : Shri. Pradip T. Patil (Steno Grd- I)  
Court Name : Addl. Sessions Judge, Islampur.  
Date of Judgment/order : 14.09.2022  
Signed by P.O. on : 14.09.2022  
Uploaded on : 14.09.2022