

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 6379 OF 2014

Waman s/o. Sudhakar Biradar
alias Patil

....Applicant.

Versus

The State of Maharashtra

....Respondents.

Mr. B.M. Dhanure, Advocate for applicant.

Mr. R.P. Phatke, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 16th January, 2015.

ORDER :

1. The application is filed for relief of anticipatory bail. Heard the learned counsel for applicant. Seen the papers of investigation.

2. Chargesheet is filed against the applicant under section 299 of Criminal Procedure Code in respect of incident dated 26.2.2000. He was shown as absconding. Some persons were arrested. The learned counsel for the applicant submitted that those accused faced the trial and are acquitted and so, the present applicant is entitled to get released on anticipatory bail.

3. The crime was registered on the basis of report given by Sunil Deshmane, truck driver. He and second driver and cleaner were taking truck bearing No. MH-24/A-2577 towards Gulbarga and they were taking goods like steel and thrashing machine. It is his case that one truck intercepted their truck and from that truck five persons alighted. There was knife in their hands. They pulled him, second driver and cleaner from the truck and they robbed them of the cash amount, wrist watch etc. These three persons then detained and kept away from the road and their limbs were tied. The report was given immediately on the next morning and the crime was registered for the offences punishable under sections 395, 341 etc. of I.P.C.

4. The learned counsel for the applicant submitted that applicant is permanent resident of Takli, Tahsil Deoni, District Latur and so, he is entitled to get the relief.

5. It is not only surprising, but it is shocking that if the applicant was known to police, he was not arrested. There are all possibilities. But, it cannot be said that it is a fit case to grant relief of anticipatory bail. When the incident took place in the year 2000, the applicant came forward in the year 2014 and after the decision of the case filed against the other accused.

Whenever there is such a case thorough investigation is always necessary and test identification parade needs to be held to give opportunity to witnesses to identify the persons who were involved in the incident. Only because chargesheet is filed against few persons and present applicant was shown as absconding, it cannot be said that police should not need the custody of the applicant for the purpose of investigation. It cannot be said that as against present applicant the investigation was completed by police. Investigating agency needs to file supplementary chargehseet against the present applicant and that can be done only after completion of investigation against the present applicant. The submission that only the evidence available as against the other accused can be considered is not at all acceptable. This Court holds that it is not a fit case to grant the relief of anticipatory bail.

6. Application is rejected. Interim relief granted in his favour earlier is vacated.

[T.V. NALAWADE, J.]

ssc/