

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.733 OF 2015

Shankar Satlingappa Mhetre	... Applicant
vs.	
The State of Maharashtra	... Respondent

Mr. A.P. Mundargi, Senior Advocate i/b. Mr. Vikrant Purwant, for the Applicant.

Mr. Arfan Sait, APP, for Respondent – State.

Mr. R.D. Shelke(PI.), Akkalkot South police station, Solapur present.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JUNE 10, 2015**

P.C.:

. Application is moved for anticipatory bail as the applicant apprehends arrest in C.R. No. 62 of 2015 registered at Akkalkot South police station, Solapur for the offences punishable under Sections 307, 353, 332, 504 and 506 of Indian Penal Code.

2. It is the case of the prosecution that the complainant Guruling Birasdar who is working as a Tahsildar at Akkalkot received direction from the Dy. Collector, Solapur to conduct inspection and raid at Fruity Bar and Orchestra to find out whether it was running as per conditions and the rules or not. Accordingly at around 23.00 hours the complainant along

with his staff and police went to the Fruity Bar and Orchestra. He asked the staff to be in the car and the complainant Tahsildar along with Talathi and one photographer entered the bar. At that time, the workers in the bar started packing all their things. The applicant/accused was drinking and he questioned the complainant that why they were shooting. At that time, he also abused the complainant and attacked him. He gave him first blows. Some injury like abrasions were caused on the chest of the Tahsildar. The applicant/accused also threatened him and he also tried to throttle him. Talathi intervened and thereafter police came inside. However, at that time the applicant/accused taking advantage of chaos ran away.

3. The learned senior counsel for the applicant/accused has submitted that it is a politically motivated criminal case filed against the applicant. He submitted that applicant was alone sitting in the bar and there were no customers. There was no reason for the complainant Tahsildar to start video shooting. There was some verbal altercations between the complainant and the applicant/accused. The learned senior counsel further submitted that falsity in the complaint is more probable if all the time sequence prior to lodging of the complaint is considered. He pointed out that as per the complaint on 9th May, 2015 at about 15.30 hours the complainant received a phone call from the office of Dy.

Collector, Solapur who directed him to prepare a confidential note and do the spot inspection at Fruity Bar and Orchestra. The learned counsel submitted that there was no need for the complainant to wait till night i.e. at 23.00 hours though he had received the direction on that day in the afternoon at 15.30 hours. He further submitted that the injuries sustained are of the abrasion. The case of the prosecution that applicant/accused tried to throttle the Tahsildar is false and there is no offence under Section 307 of Indian Penal Code. He submitted that applicant is a leader from one political party and due to political rivalry he is implicated in this case.

4. The learned prosecutor opposed this application. He relied on the order given by the Dy. Collector dated 8th May, 2015 in respect of going for inspection at Fruity Bar and Orchestra. He submitted that Sections 332 and 353 of Indian Penal Code are in respect of offences committed against the public servant. The applicant/accused is a political leader and therefore fear factor exists to great extend, hence the complainant has not resumed on duty till today. No pre arrest bail be granted to the applicant.

5. Perused the first information report along with statements of the witnesses and the order passed by the Dy. Collector, Solapur. Perused the injury certificate. The injury certificate discloses that there are three

abrasions. Injuries caused to the complainant are simple in nature. However, the offence is committed against the public servant who was performing his duty. The offence is under Sections 332 and 353 of the Indian Penal Code. Despite of the punishment for these two offences is for three years and two years respectively, these two offences are non-bailable. Obviously, with a view to give full protection to the public servants who are performing their duty and they should perform their official duty without fear and there should be complete respect towards the law and order by way of amendment Section 353 of the Indian Penal Code is made non-bailable. It is true that everybody is equal before law. However, higher the position or more the power, greater the responsibility to respect the law and order. If a person in power violates law, then the degree of damage done to the system and the rule of law is always higher than the breach by a common man.

6. Considering this legal position and also considering the nature and contents of the first information report, I do not find that it is a politically motivated false case filed against the applicant/accused. Therefore, I am not inclined to grant pre arrest bail.

7. Hence, rejected.

(MRS.MRIDULA BHATKAR, J.)