

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.799 OF 2015

Maruti Popat Kamble

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.G.S. Godbole i/b Ms.Sanjukta Dey for the Applicant

Mr.Arfa Sait, APP, for Respondent – State

Mr.V.M. Dandile, Investigating Officer / PSI, Loni Kalbhor police station

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

DATE: **JUNE 22, 2015**

P.C.:

1. The applicant/accused is prosecuted for the offences punishable under sections of the Indian Penal Code. The crime is registered at C.R. No.429 of 2014 by the Loni Kalbhor police station.

2. The FIR is initiated at the instance of one Sachin Pundlik Bodake, who informed the Loni-Kalbhor police station, Pune (Rural) that the applicant/accused alongwith his associates, who are the co-accused, were armed with iron rods, sticks and stones. On 16.11.2014, at around 8pm, they were trying to break the ATM of the Bank of Maharashtra. When the complainant questioned them about their act, the applicant/accused assaulted him on his head with iron rod and the complainant sustained head injury. The co-accused assaulted him with stick, fists and kicks. He

was admitted to hospital from 16.11.2014 to 1.12.2014. The offence was registered at C.R. No.430 of 2014 at Loni-Lalbhori police station, Pune (Rural) for the offences punishable under sections 307, 143, 147, 148, 149, 504, 506 of the Indian Penal Code and under section 135 of the Mumbai Police Act.

3. Learned Counsel for the applicant/accused has pointed out that the brother of the applicant/accused was injured on the same day. He was assaulted by the cousins and associates of the complainant in the present case. The said offence was registered at C.R. No.429 of 2014 at Loni-Kalbhori police station, Pune (Rural) under section 307, 324, 143, 147, 148, 149 and also under section 135 of the Mumbai Police Act, under section 3 and 25 of Arms Act and under sections 3(1)(10) and 3(2)(5) of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989. The learned Counsel submitted that if at all as per the case of the prosecution, the applicant/accused and the co-accused were trying to break the ATM of the Bank of Maharashtra, there is nothing to show on record that a panchanama to that effect was drawn by the police. He submitted that the applicant/accused is ready to cooperate and there are no criminal antecedents against him.

4. Learned Prosecutor appearing for the State relied on the injury certificate given in favour of the complainant. He also relied on the FIR

and the statements of the witnesses. He relied on the order passed by this Court on 16.2.2015 where other accused had applied for pre-arrest bail. However, they withdrew their applications as the earlier Court has expressed view against those applicants/accused.

5. Perused the FIR; seen the injury certificate of the informant; perused the counter complaint given by Rajendra Kamble. Also perused the order dated 16.2.2015 passed by my predecessor. It is true that the present applicant/accused is attributed a specific role of hitting with iron rod on the head of the complainant. The injury certificate discloses that there is a CLW on the forehead of the complainant. However, there is no fracture and the injured was treated as an indoor patient for 6 days. No panchanama of the ATM was drawn. In view of the cross complaint which was registered on the same day at C.R. No.429 of 2014 with the same police station, the head injury and the fracture sustained by the brother of the applicant/accused and considering that there are no criminal antecedents against the applicant/accused, I am inclined to grant pre-arrest bail on the following terms and conditions:

- i) In the event of arrest, the applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;

- ii) The applicant shall not tamper with the evidence;
 - iii) The applicant/accused shall not indulge into any offence, while on bail;
 - iv) The applicant shall cooperate with the Investigating Officer and attend the concerned police station on every Thursday between 6pm to 7pm, till filing of chargesheet.
6. Anticipatory Bail Application is disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)