

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.526 OF 2015

Sudhir s/o Daulatram Paliwal, R/o 157, Ramdaspath, Nagpur.

-vs-

State of Maharashtra, Thr. P.S.O, Dhantoli Police Station, Nagpur.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri R. S. Akbani, Advocate for applicant.
Smt. R. Deshpande, APP for State/respondent.
Shri J. M. Gandhi, Advocate for intervenor.

CORAM : A.S.CHANDURKAR, J.
DATE : October 30, 2015

The applicant apprehends arrest under provisions of Sections 143, 147, 148, 149, 452, 341, 323, 427 and 506(2) of the Indian Penal Code.

As per report dated 18/09/2015, the complainant one Ashish Khandelwal has reported that there were certain disputes with regard to one Sainath Blood Bank of which his father was the founder Secretary and the applicant was founder President. It is further stated that on 06/09/2015 between 1 pm and 2 pm when the office was occupied by staff members and about 15 students, the applicant along with 10-15 other persons forcibly entered said premises and by using force intimidated the complainant. He further stated that three persons therein were armed while some other persons had wooden sticks in their hands. Due to intervention of the police authorities, the applicant and other persons dispersed.

On behalf of the applicant, it is stated that there were disputes between the applicant and father of the complainant under provisions of the Maharashtra Public Trusts Act, 1950 and litigation in that regard is pending. It is submitted that on 06/09/2015, the complainant as well as present applicant were summoned to police station Dhantoli and a communication was issued by the complainant stating that the disputes between them had been resolved. A report was thereafter lodged on 18/09/2015. It is therefore submitted that the report is by way of an afterthought and the applicant is entitled for grant of anticipatory bail.

The application is opposed by the learned Assistant Public Prosecutor. It is submitted that the identity of various persons who had accompanied the applicant is yet to be established. Similarly the weapons in custody of other persons have to be seized. It is therefore submitted that considering the gravity of the offence and the fact that students in said premises had been locked, there is no case for grant of anticipatory bail.

Learned counsel for the complainant submitted that the communication dated 06/09/2015 was got taken from him under pressure and thereafter on 08/09/2015 another report was lodged with the Police Commissioner narrating the incident dated 06/09/2015. It is therefore submitted that the letter dated 06/09/2015 deserves to be ignored and that custody of the applicant is necessary for further investigation.

I have heard the respective counsel and I have perused the case diary. The report as lodged refers to the incident dated 06/09/2015 having occurred between 1 pm and 2 pm. The allegation is that the applicant along with his associates had threatened the complainant by trespassing in the premises. After intervention of the police authorities, both parties went to Police Station, Dhantoli. The communication dated 06/09/2015 issued by the complainant to the police authorities states that disputes between the parties had been amicably resolved. The subsequent communication dated 08/09/2005 issued by the complainant does not state that the complainant was pressurised in giving said communication dated 06/09/2015. Considering various litigations pending between the applicant and father of the complainant coupled with the fact that report was lodged on 18/09/2015 after almost 12 days and absence of any allegation that the applicant himself was armed, a case for grant of anticipatory bail has been made out. Apprehension of the prosecution regarding influencing witnesses can be taken care of imposing suitable conditions.

Accordingly following order is passed :

- i) In the event of arrest of the applicant-Sudhir s/o Daulatram Paliwal in Crime No.238 of 2015 registered with Dhantoli Police Station, he shall be released on furnishing P.R.Bond of Rs.30,000/- (Rupees thirty thousand) with one surety in the like amount.
- ii) The applicant shall not enter the disputed premises

till the investigation is complete.

iii) The applicant shall attend Dhantoli Police Station as and when directed by the Investigating Officer. He shall co-operate with the investigating agency.

iv) No steps shall be taken to tamper with the material collected by the prosecution.

v) Breach of any of the aforesaid conditions would entitle the respondent to seek cancellation of aforesaid relief.

vi) Application is disposed of.

JUDGE