

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2216 OF 2016

Arfeen Mubeen Khan,
Age : 38 years, Occu. : Household,
R/o : Dream Land Society,
Near Bombay Hospital,
Mukund Nagar, Ahmednagar,
Taluka & Dist. Ahmednagar .. Applicant

Vs.

The State of Maharashtra and others .. Respondents

Mr. G.R. Syed, Advocate for the applicant
Mr. A.S. Shinde, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 21/04/2016

ORAL ORDER :

Heard both sides.

2. The present application is filed for cancellation of the order dated 11/04/2016 to release the respondent nos.3 and 4 on anticipatory bail by the learned Additional District and Sessions Judge, Ahmednagar.

3. The respondent nos.3 and 4 were apprehending arrest in crime no.I-26 of 2016 registered with Camp

Police Station, Dist. Ahmednagar for the offences punishable under section 452, 326, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code.

4. The prosecution allegations in nutshell are that over the issue of obtaining electricity supply, the injured Afrin has restrained the accused persons from taking the electricity illegally. Upon that, co-accused persons assaulted the prosecution witnesses including the complainant by iron rod, bat, wooden log and kick and fist blows. The present respondent nos.3 and 4 – the women allegedly manhandled the female family members of the complainant.

5. The order of the learned Additional Sessions Judge would show that the Investigating Officer was called upon to bring all the papers of investigation. It appears that the co-accused against whom serious allegations of assault are there, are absconding. Learned Additional Sessions Judge observed that the same cannot be a ground for rejection of the application and in the circumstances, the anticipatory bail came to be granted.

6. Mr. Syed submits that the application was successive anticipatory bail application without any change of circumstance.

7. Mr. Syed also relies on the ratio of "**State of Maharashtra Vs. Pratapsinha @ Sanjay Shankarrao Chavan and others**" 2006 (11) LJSOFT 68, wherein it was observed that the principle that if two views are possible, one in favour of the accused should be accepted, cannot be made applicable at the stage of investigation. If the anticipatory bail is granted on irrelevant considerations ignoring the relevant material, the order would be termed as perverse.

8. In the present case, what we find is that the abscondance of the co-accused was made a ground for seeking rejection of the application. The learned Additional Sessions Judge observed that the same cannot be a ground. The said reasoning cannot be called as perverse. The Application is therefore dismissed.

[M.T. JOSHI]
JUDGE

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