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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.3814 OF 2016

Shri Dilip Hari Nagare,
Age: 35 years, Occ: Business,
R/o. Rannale,
Tal. & Dist. Nandurbar. ..APPLICANT

VERSUS

The State of Maharashtra
Through Police Inspector
Nandurbar Taluka Police Station
Nandurbar. ..RESPONDENT

Mr R.S. Wani, Advocate for applicant;
Mr C.V. Dharurkar, Addl. Public Prosecutor for
respondent

CORAM : N.W. SAMBRE, J.

DATE : 25th July, 2016

ORDER :

The applicant is seeking pre-arrest bail
in Crime No. 57 of 2016, registered with Nandurbar
Taluka Police Station, District Nandurbar, for the
offence punishable under Sections 326, 323, 504,
506 of the Indian Penal Code, for the alleged
incident dated 19th May, 2016 at 7-40 p.m.

(2)

2. While trying to make out a case for grant of bail in the aforesaid crime, learned Counsel for the applicant would invite attention of this Court to the first information report in Crime No. 58 of 2016 registered with Nandurbar Taluka Police Station for the offence punishable under Sections 326, 324, 143, 147, 148, 149 of the Indian Penal Code for the incident dated 19th May, 2016, which took place at 7-30 p.m. The complainant in the said case is Nilesh Shinge and along with present applicant, other ten accused are shown to have participated in the said crime. Learned Counsel for the applicant would submit that the prosecution story in the present case appears to be that present applicant, by an axe, assaulted complainant Ganesh, as there was a dispute between Ganesh and family of present applicant in relation to immovable property. Learned Counsel for the applicant would submit that the applicant is falsely implicated in the crime in question in view of nature of allegations appeared in Crime Nos.57

(3)

of 2016 and 58 of 2016. He would then submit that custodial interrogation of the applicant is not necessary, as he was already under police custody remand in Crime No. 58 of 2016 for substantial period when the offence in question should have been investigated into. He would submit that probability of the alleged incident/crime in Crime No. 57 of 2016 is required to be analyzed, having regard to the fact that the incident in Crime Nos. 57 of 2016 and 58 of 2016 as claimed to have taken place at a difference of just ten minutes and looking to the nature of allegations, same according to him, is not possible.

3. Learned A.P.P. opposed the application on the ground that there is sufficient material available on record and sword is to be recovered from the applicant. He would submit that the custodial interrogation of the applicant is necessary, as he is involved in a serious crime.

4. Having bestowed my thought to the

(4)

submissions made, it is to be noted that the Crime No. 58 of 2016 for the offence punishable under Sections 326, 324, 143, 147, 148, 149 of the Indian Penal Code was registered on 19th May, 2016, though first information report for the same was lodged on 20th May, 2016. The incident in Crime No. 58 of 2016 alleged to have taken place at 7-30 p.m. Looking to the nature of allegations in the first information report of the said incident, it is really hard to digest that the incident as narrated in Crime No. 57 of 2016 took place at 7-40 p.m. i.e. immediately after ten minutes of the incident in Crime No. 58 of 2016. In view thereof, *prima facie*, it cannot be inferred that the applicant is involved in the crime in question, as false implication of the applicant cannot be ruled out.

5. Apart from above, the applicant was in the custody of police when Crime No. 57 of 2016 was very much registered and it was always open for the Investigating Officer to investigate the said crime i.e. 57 of 2016, as from 23rd May, 2016 to 27th

(5)

May, 2016 the applicant was in the custody of same police station. The applicant was released on bail on 7th June, 2016 in Crime No. 58 of 2016.

6. Though there is medical certificate depicting injury, which matches with that of claim made in the first information report, however, the fact that the applicant was shown to have accused in both the Crime Nos. 58 of 2016 and 57 of 2016, false implication in one of the crime cannot be ruled out.

7. In view of above, the applicant is entitled to be released on bail. Hence, the following order:-

(i) In the event of arrest of the applicant, in connection with Crime No. 57 of 2016, registered with Nandurbar Taluka Police Station, District Nandurbar, for the offence punishable under Sections 326, 323, 504, 506 of the Indian Penal Code, he be released on bail, on furnishing P.R.

(6)

Bond of Rs.15,000/-, with one surety in the like amount.

(ii) The applicant shall attend the concerned police station on 4th and 5th August, 2016 between 10-00 a.m. to 12-00 noon and thereafter as and when called by the Investigating Officer.

(iii) The applicant shall not tamper with the prosecution evidence or influence the prosecution witnesses.

8. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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