

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

Criminal Application No. 01055 of 2017

District : Jalgaon

Kiran s/o. Jaiwant Patil,
Age : 31 years,
Occupation : Service,
R/o. Dheku Road,
Talathi Galli,
Taluka Amalner,
District Jalgaon.

.. Applicant.

versus

The State of Maharashtra,
Through Inspector,
Amalner Police Station,
Amalner, Dist. Jalgaon.

.. Non-applicant.

.....

Mr. B.R. Warma, Advocate, for the applicant.

*Mr. S.W. Munde, Addl. Public Prosecutor, for the
non-applicant.*

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CORAM : T.V. NALAWADE, J.

DATE : 05TH APRIL 2017

ORAL ORDER :

By the present application, the applicant is seeking pre-arrest bail in connection with Crime No. 251/2016 registered with Amalner Police Station, District Jalgaon, for offences punishable under Sections 353, 332, 324, 323, 504, 506 and 427 of the Indian Penal Code.

02. Both the sides are heard.

03. The crime is registered on the basis of report given by Police Constable, Vilas s/o. Eknath Gaikwad, dated 08.12.2016. The incident took place on 28.11.2016. Against the brother of present applicant, namely, Ghanshyam s/o. Jaywant Patil, Crime No. 240/2016 was registered for offences punishable under Sections 147, 148, 149, 395, 427 and some provisions of the Maharashtra Police Act. Police wanted to arrest Ghanshyam and so, at about 11.00 a.m., they reached the house of Ghanshyam. Ghanshyam was present in the house. When Police informed him that they had come to arrest him and he should accompany them to the Police Station, both Ghanshyam and the present applicant started shouting and picked up quarrel. Ghanshyam refused to go with the Police. Allegations are made that at that time, present applicant virtually prevented Police from arresting Ghanshyam by saying that he would not allow Police to take Ghanshyam with them. When Police were taking Ghanshyam with them and they were making him to sit in Police vehicle, Ghanshyam held collar of shirt of the complainant and at that time, present applicant gave blow of wooden log on the lateral side of head of the complainant and due to that, he suffered bleeding injury to head and to ear. Abuses were also given to Police and threats were given that they would teach lesson to those who were there for arrest and Police would be made to lose their service. The complainant was taken to Rural Hospital

at Amalner where treatment was given to him.

04. Learned Advocate for the applicant mainly argued regarding circumstance like delay caused in giving of the FIR. In view of this circumstance, this Court had called the M.L.C. register to ascertain few things. This Court has perused the register and it shows that on 28.11.2016, at about 11.20 a.m., the complainant was produced before the Medical Officer of Rural Hospital. One incised wound and one injury over ear was found on his person. These injuries were sustained by the complainant on the day of the incident.

05. At this stage, the circumstance like delay caused in giving of the FIR need not be considered.

06. Learned Advocate for the applicant submitted that the applicant is serving as Sena Police and he is posted at Assam and he may lose his service if arrested in the matter. Learned Advocate for the applicant submitted that due to political rivalry, false case was filed in the past and there were other reasons like Ghanshyam's brother had given complaint against Tahsildar as Tahsildar was demanding illegal gratification. Copy of that report would certainly of no assistance to the present applicant as the report shows that the complainant of the said case was involved in illegal activities like removing sand illegally and at least on three occasions his vehicles were intercepted and seized by the revenue

officers.

07. Learned Advocate for the applicant submitted that on the day of the incident, even ladies in the family of the applicant were assaulted by the Police and no action is taken against those Police Officers when beating was given to ladies. This circumstance also cannot be considered in favour of the present applicant and it can be inferred that some incident did take place at the residential place of Ghanshyam. Submission was made on behalf of the applicant, that the ladies were referred for medical examination and report of the medical examination was received. Some of the ladies sustained blunt trauma.

08. In view of the aforesaid circumstances and as the incidents of attacking Police are increasing day by day, this Court holds that the discretionary powers cannot be used in favour of the applicant.

09. In the result, the Application is rejected. Interim relief granted by this Court by order dated 28.02.2017 stands vacated.

10. At this stage, learned Advocate for the applicant orally prayed for continuation of interim relief for few days. The prayer is rejected.

(T.V. Nalawade)
JUDGE