

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

CRIMINAL APPLICATION (ABA) NO.586 OF 2017

Irshad Ahmad Abdul Rafique Qureshi

..vs..

The State of Maharashtra, thr. PSO PS Pendhari, Tahsil Dhanora, District
Gadchiroli

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

Court's or Judge's Order

.....
Shri R.M. Mardikar, Counsel for the applicant.

Shri I.J. Damle, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : SEPTEMBER 6, 2017.

Heard learned counsel Shri R.M. Mardikar for the
applicant and learned Additional Public Prosecutor Shri I.J.
Damle for the non-applicant/State.

Though the State has not filed its reply to this
application, the application can be disposed of on the basis of
the contents of the first information report itself.

When an applicant approaches to the Court for
grant of anticipatory bail, it is incumbent to point out the
relevant factors for considering his application for anticipatory
bail for favourable consideration. Else, if the Court is not
satisfied with the submission and about custodial presence of an
applicant, in view of the statement, those are asserted in the
first information report, it is sufficient either to grant or refuse

an anticipatory bail application.

According to learned counsel Shri R.M. Mardikar for the applicant, the applicant's name is appearing in the prosecution case only for (i) that previously he was accused of offences of similar nature; (ii) statement of the co-accused cannot be pressed into service for curtailing a personal liberty of the applicant.

There cannot be any doubt that the statement of the co-accused can never be pressed into service for curtailing a personal liberty of a citizen.

The first information report is lodged by Police Sub Inspector (Quick Response Team) Shri Vaibhav Deshpande, situated at Pendhari Camp Karwafa, District Gadchiroli, which is naxal affected area. According to the first information report, regular Nakabandi was in operation. When the Nakabandi was in operation on 16.4.2017 at 23:00 hours, two vehicles were proceedings with a high speed. Therefore, when the police personnels of the said Quick Response Team tried to stop the said vehicles, driver of one four wheeler of Mahindra pickup van having white colour tried to run over the police personnnels. In order to save their lives, they just gave a side to the said speeding vehicle. The said vehicle, thereafter, gave a dash to Point No.1 and, thereafter, tried to take U-Turn and proceeded towards Point No.2. That time, the first informant

tried to stop the said vehicle. At the same time, another vehicle of white colour also gave dash to the first informant and fled away from the spot. Somehow the first vehicle was stopped by the police party. When a search of the said vehicle was taken, 6 bullocks were found in the said vehicle and they were tied in a cruel manner. Upon an enquiry, the driver of the said vehicle informed that the said bullocks belong to the present applicant and those were taken for their slaughter. It is also revealed that second vehicle, which gave dash and fled away from the spot, is owned by the present applicant and in the said also the bullocks were there.

The custodial presence, in my view in the present case, is absolutely necessary since the police have to inquire as whether the applicant was driving the said vehicle or not which gave dash to the police personnel and fled away from the spot. Further, in view of the submission made by learned counsel for the applicant himself that previously he is accused of committing such offences, that shows that the present is having inclination to repeat offences. If the applicant is having inclination to repeat offences, in such an event discretionary relief cannot be granted. Hence, the criminal application is rejected.

JUDGE

!! BRW !!

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