

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

CRIMINAL APPLICATION (ABA) NO.587 OF 2017

Mahendrasing Gopalsing Rajput

..vs..

State of Maharashtra, through its Police Station Officer, Daryapur, Taluka and
District Amravati

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

Court's or Judge's Order

Shri D.I. Jain, Counsel for the applicant.

Shri J.Y. Gurdey, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : AUGUST 21, 2017.

Heard learned counsel Shri D.I. Jain for the
applicant and learned Additional Public Prosecutor
Shri J.Y. Gurdey for the State.

This is an application under Section 438 of
the Code of Criminal Procedure for grant of
anticipatory bail.

According to learned counsel Shri D.I. Jain
for the applicant, since the applicant is apprehending
his arrest in connection with Crime No.375 of 2016
registered with Daryapur Police Station for the
offences punishable under Sections 302, 201, and 396 of
the Indian Penal Code and under Section 4/25 of the
Arms Act, 1959 and under Section 135 of the Bombay
Police Act, 1951, is before this Court.

.....2/-

According to learned counsel for the applicant, the investigation is already over and the investigating agency has already filed the final report before the Court of law. It is also the submission of learned counsel for the applicant that all the weapons are already seized by the police officer and, therefore, custodial presence of the present applicant is not at all warranted. He, therefore, prays that the application be allowed and he be released on bail in the event of his arrest.

Per contra, learned Additional Public Prosecutor Shri J.Y. Gurdey for the State vehemently opposes the present application. He submits that the applicant has suppressed material facts from this Court that the applicant was already arrested in the present crime and during course of his investigation, he ran away from the lawful custody of the Sub Divisional Police Officer at Daryapur and, therefore, a separate offence against the present applicant vide Crime No.387 of 2016 is already registered against him for the offence punishable under Section 224 of the Indian Penal Code on 7.10.2016. He also points out that the charge-sheet is filed by showing the applicant is absconding and, therefore, against the present applicant the charge-sheet under Section 299 of the Code of Criminal Procedure is filed. He also points out

that the present applicant is having criminal antecedents at his credit and, therefore, the present application is required to be rejected.

The applicant has placed on record the entire copy of the charge-sheet. The charge-sheet contains a arrest panchanama of the present applicant which is available at page No.115.

Perusal of the said arrest panchanama shows that the present applicant was arrested on 6.10.2016 and an intimation of his arrest is also given to his wife Sau. Durgabai Rajput.

According to learned counsel for the applicant, in fact on 29.6.2016 the police party visited the house of the applicant and they asked the applicant and his wife to accompany with them in the police station and in the police station they were mercilessly beaten and, thereafter, they were let-out by the police. According to learned counsel for the applicant, for the said incident the mother of the present applicant has already filed a representation before the Superintendent of Police.

According to learned counsel for the applicant, the applicant and his wife were mercilessly beaten up, therefore, a question was put by this Court to learned counsel for the applicant as to whether the applicant and his wife approached to the hospital and

the answer to this question was in affirmative. However, the applicant could not give any detail in respect of in which hospital the applicant was examined. There are no averments in that behalf in the application also. Therefore, such bald words have no value and are required to be discarded.

The police officer in discharge of their duties have arrested the present applicant in a heinous crime when the applicant and other co-accused waylaid the deceased and caused his murder and also robbed valuables of the said deceased. There is no reason for the police officer to prepare a fabricated or fake document of arrest panchanama. According to the prosecution, the applicant ran away from the office of the Sub Divisional Police Officer and for that also a separate offence is registered.

Learned counsel for the applicant submits that other co-accused are already released on regular bail by the Trial Court.

The case of the present applicant cannot be equated with those persons who are released on regular bail inasmuch as here is the applicant who is not having faith in law. In fact, he is taking the law into his own hands and is escaping himself from the legal custody than facing course of law. Further, the applicant is having two offences at his discredit that

show that the present applicant is having inclination to commit offences. The discretionary relief in the nature of pre-arrest bail cannot be exercised in favour of such person who ran away from the course of law.

Hence, the application is rejected. However, learned Additional Public Prosecutor is directed to place on record by 31.8.2017 as to what steps and action are taken by the higher-up of the police department against erring police officers from whose custody the present applicant ran away.

Steno copy.

JUDGE

!! BRW !!

...../-