

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

ANTICIPATORY BAIL APPLICATION NO.669 OF 2020

Bhivaji S/o Vyankat Bargaje

..APPLICANT

-VERSUS-

The State of Maharashtra

..RESPONDENT

...

Mr.V.M. Chate, Advocate for the applicant.

Mr.S.Y. Mahajan, APP for respondent/State

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CORAM : V.L.ACHLIYA,J.

DATE : 09.10.2020

ORAL ORDER :

. On an apprehension of arrest in connection with the offence registered U/s. 307, 341, 323, 504 r/w Section 34 of the Indian Penal Code (IPC), vide C.R. No.200/2020 with Police Station, Kaij, Tq.Kaij, Dist. Beed, the applicant has preferred this application seeking anticipatory bail.

2. Heard learned counsel for the applicant and learned APP representing the respondent-State. Perused the first information report and the order passed by the learned Additional Sessions Judge rejecting the application for anticipatory bail filed by the applicant. So also perused

the papers of investigation.

3. In brief, it is the contention of learned counsel for the applicant that there is delay of three days in filing the first information report. The informant-injured was discharged from the hospital after one day. It is submitted that injury as sustained by the informant simple in nature and overall facts of the case and accusations made therein attract no offence U/Sec. 307 of IPC. It is submitted that the applicant is innocent. Except the applicant all other accused are released on bail. It is submitted that the cross complaint was filed against the informant and others. It is further submitted that the investigation of the case is completed and grant of anticipatory bail to the applicant would not affect ongoing investigation.

4. On the other hand, learned APP opposed the application with contention that there is strong prima facie case to connect the applicant with the offence. By referring allegations in the first information report, learned APP pointed out that the applicant is a prime accused. He has been attributed

specific role and assaulted the informant by means of axe over the head. It is submitted that as per the injury certificate issued by the Sub-District Hospital, Kaij, the injured had suffered contused lacerated wound over left parietal skull of size 6 x 3 x 1 cm deep irregular in shape and contusion over the left ear pinna of size 1 x 1 cm deep irregular in shape. In the background of overall facts of the case, learned APP submits that considering the nature of accusations, seriousness of offence and role attributed to the applicant in commission of offence custodial interrogation of the applicant is necessary. The weapon used in the commission of offence to be recovered from the applicant.

5. On due consideration of the submissions advanced in the light of overall facts of the case, nature of the accusations against the applicant, role attributed to the applicant in commission of offence, seriousness of offence, I am of the view, the applicant do not deserve protection U/Sec. 438 of the Code of Criminal Procedure. The delay in lodging the first information report is not sufficient to extend the protection to

the applicant U/Sec. 438 of the Code of Criminal Procedure. In the first information report lodged by the informant, the informant has specifically stated that the applicant has assaulted by means of axe over his head. The injury report corroborate the ocular version of the incident given by the informant. The applicant has assaulted the informant over the head and above the ear by means of axe. I am therefore not inclined to entertain the application. Grant of anticipatory bail to the applicant would frustrate the ongoing investigation. In the facts and circumstances of the case, the custodial interrogation of the applicant is necessary. Hence the application is rejected.

6. It is clarified that the observations made hereinabove are made for limited purpose of deciding the present application. None of the observation made shall be treated as observation made as to merit of case of prosecution against the applicant.

[V.L.ACHLIYA]
JUDGE