

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

ANTICIPATORY BAIL APPLICATION NO.730 OF 2020

Parvez Astak Sayyed and another

... Versus ...

The State of Maharashtra and another

...

Mr. C.K. Shinde, Advocate for applicants

Mr. S.P. Tiwari, APP for respondents

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 16th OCTOBER, 2020

ORDER :

1 Present applicants are apprehending their arrest in connection with Crime No.559/2018 with Rahuri Police Station, Dist. Ahmednagar for the offence punishable under Section 307, 353, 332, 333, 120-B of the Indian Penal Code.

2 Heard learned Advocate Mr. C.K. Shinde for applicants and learned APP Mr. S.P. Tiwari for respondents.

3 It has been submitted on behalf of the applicants, that the perusal of the First Information Report would show, that the present applicants have not been named therein. It was against one Gorakshanath

Raghunath Shete and other unknown persons. The informant, who is serving as Associate Professor in Mahatma Phule Krishi Vidyapeeth, Rahuri and was also holding the charge of the post of Rector of the Boys Hostel, had dispute with said Gorakshanath Shete. The FIR also states, that Shete was under impression, that his job as Security Officer of the University is affected by alleged some acts on the part of informant. But the present applicants, who are the businessmen, have nothing to do with the offence, especially with the university or hostel nor they have friendship with Gorakshanath Shete. The custody of the present applicants is not required. The learned Trial Judge has rejected the application only on the ground, that the role attributed to the accused is of providing vehicle as well as assault by means of fighter. It is also stated, that the accused are habitual. The present applicants have no criminal antecedents, and therefore, they be released on anticipatory bail.

4 Per contra, the learned APP submitted, that the learned Trial Judge has correctly assessed the role of the present applicants, though their names have not been included in the FIR, yet, description has been given. It has been stated, that one of the persons, who was obese and was wearing T-shirt had assaulted the informant with fighter on his head. Another person had tried to strangulate him by sitting on his chest. The incident has happened near Ravindra Colony within the premises of the university at

about 7.15 p.m.. Therefore, the offence is serious and the manner, in which it has been caused, prompts that no leniency should be shown to the applicants.

5 At this stage, the facts, which are before this Court, that the Associate Professor-informant Rahul Desale was proceeding towards his work of inspecting hostel, which is within the university premises. When he was near Ravindra Colony at about 7.15 p.m. he was intercepted by a car. Three persons got down from the same and went near him. A person, who was obese and having height, wearing T-shirt, gave blow of fighter on his left cheek and left eye. When that person wanted to cause injury on the head of the informant, informant gave jerk to him and in that process he fell down. Another person sat on his chest and tried to strangle. When he raised hue and cry, at that time, the person sitting on the informant, got up and hurriedly rushed in the four wheeler. Informant could see Gorakshanath Shete on driver's seat. According to the informant, Shete wanted to take revenge because he was stripped off the work of Security Officer and he was carrying impression that it is because of the informant. Till today, it appears that Investigating Officer has not collected any such material, which would connect the present applicants with the crime. Even if for the sake of argument it is taken that the name of the present applicant was disclosed by

the accused, who has been now released on regular bail, yet we can see the evidentiary value of that statement. The learned Judge has rejected the application on vague grounds. It is stated, that the role of the present accused is of providing vehicle and assault by fighter. As regards the vehicle is concerned, the FIR does not say it's number. Nothing is placed on record to show, that any one of the applicants is the owner of that vehicle, of which later on number has been disclosed. Further, the order is also silent on the point, as to on which basis the learned Trial Judge had come to the conclusion, that the accused persons are habitual. In fact, without any such material the Courts should refrain themselves from addressing applicant/accused persons as habitual offenders. Under such circumstance, definitely case is made out to release the applicants on bail. Hence, following order.

ORDER

1 Application is hereby allowed.

2 In the event of arrest of the applicant Nos.1) Parvez Ashtak Sayyed and 2) Taufiq Jameel Deshmukh, in Crime No.559/2020 registered with Rahuri Police Station, Dist. Ahmednagar, for the offence punishable under Section 307, 353, 332, 333, 120-B of the Indian Penal Code, they be

released on P.R. of Rs.50,000/- with two solvent sureties of Rs.25,000/- each.

3 The applicants shall not tamper with the evidence of prosecution, in any manner.

4 They should remain present before the Investigating Officer on every Monday and Thursday between 10.00 a.m. to 2.00 p.m., till filing of charge sheet and they should cooperate with the investigation.

(Smt. Vibha Kankanwadi, J.)

agd