

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 823 of 2020

Trimbak S/O Nivrutti Nagargoje,
Age : 52 years, Occu. Agri.,
R/o Gangakhed, District Parbhani

APPLICANT

VERSUS

The State of Maharashtra,
through Police Station, Gangakhed,
District Parbhani

RESPONDENT

Mr. B.N. Gadegaonkar, Advocate for the applicant
Mrs. P.V. Diggikar, A.P.P. for the respondent/State

CORAM : MANGESH S. PATIL, J.

DATE : 03.11.2020

PER COURT :

Heard both the sides.

2. The applicant, who is accused No.1 in Crime No. 302/2020, registered with Police Station, Gangakhed for the offences punishable under Sections 307, 323, 324, 325, 327, 341 read with Section 34 of the Indian Penal Code, is seeking bail under Section 438 of the Code of Criminal Procedure.

3. The sum and substance of the allegations as can be made out

from the FIR and the police papers, are to the effect that the informant is the son-in-law of the applicant. There was matrimonial dispute between the informant and his wife. She had lodged a complaint against him for the offences punishable under Sections 498-A, 313, etc. of the IPC. The informant was granted bail. The applicant and his family members were annoyed because of the grant of such bail. On 28.06.2020 at about 14.30 Hrs., the applicant alongwith his son and few other persons assaulted Rajabhau – the informant and one Keshav with electric wire. The allegations against the applicant are about he having given a fist blow on the face of Keshav.

4. Mr. B.N. Gadegaonkar, learned Advocate for the applicant submits that since registration of the present crime and the counter case i.e. Crime No. 303/2020, wherein the applicant is the informant, both sides have entered into a compromise out of the Court. He, therefore, submits that in the larger interest of the parties, the applicant may be granted anticipatory bail, else the bitterness would increase.

5. The learned Advocate further submits that in fact, the informant, his brother and other associates were the aggressors, who had assaulted the present applicant with deadly weapon like knife. The applicant himself was seriously injured with a sharp and deadly weapon. As against this, there were no weapons being carried by the applicant, his son and other associates. The allegations are that they have used electric wire for

carrying out the assault. The role attributed to the applicant is much less, about having given a fist blow to Keshav. Nothing is to be recovered from him and therefore, he may be granted anticipatory bail.

6. The learned A.P.P. opposes the application. She submits that the fact of compromise out of the Court should not weigh with the Court while considering the application for anticipatory bail. She further submits that taking into account the fact that the applicant himself is injured and lodged FIR in Crime No. 303/2020, is sufficient to demonstrate his presence at the scene of the crime. There is specific reference to his presence in the FIR as well and he having given fist blow to the witness Keshav. She, therefore, submits that the applicant did play a role in commission of the crime and cannot be granted anticipatory bail.

7. I have carefully gone through the papers. Needless to state that the question of subsequent compromise between the parties should not play on the mind of this Court while considering the application for anticipatory bail.

8. However, it is also a matter of record that the applicant himself was seriously injured and lodged the FIR in Crime No.303/2020, attributing specific allegations to the present informant Rajabhau and his brother Karan of assaulting him with a knife. As against this, the allegations in the present crime against the applicant are merely of giving a fist blow to one Keshav.

Even accepting the allegations in the FIR at their face value, no weapon was used by the present applicant and his associates. Only an electric wire is stated to have been used for carrying out the assault. Even those allegations are not attributable to the present applicant. There is only a vague and isolated allegation about he having given a fist blow to Keshav. There is not enough material to infer that the assault was carried out by the applicant and his associates with any predetermination. Nothing, therefore, is to be recovered from the applicant.

9. Besides, this Court has granted anticipatory bail to co-accused Sachin Trimbak Nagargoje i.e. the son of the applicant and Hanumant Shankar Malwe. The case of the applicant does not materially differ from that of Sachin and Hanumant.

10. Considering the above mentioned facts and circumstances, the applicant deserves to be granted anticipatory bail subject to usual conditions.

11. The application is allowed. In the event of arrest of the applicant in connection with Crime No.302/2020 registered with Police Station, Gangakhed for the offences punishable under Sections 307, 323, 324, 325, 327, 341 read with Section 34 of the Indian Penal Code, he shall be released on bail on his executing personal recognizance for an amount of Rs.25,000/- (Rupees Twenty Five Thousand) and furnishing a solvent surety in the like amount on following conditions :

- a] He shall attend the concerned Police Station as and when called by the Investigating Officer till filing of the chargesheet and shall cooperate him.
- b] He shall not tamper the evidence or influence the witnesses.

[MANGESH S. PATIL]
JUDGE

npj/ABA823-2020