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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

924 ANTICIPATORY BAIL APPLICATION NO.832 OF 2020

ANIL S/O. SHANKAR LANDGE
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr.AB Girase, Adv.h/for
Mr. Jadhav Kakasaheb B
Mr. AM Phule, APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI,J.
DATE : 8th December, 2020.

PER COURT:-

1. Heard learned Advocate appearing for applicant and learned APP for State. The applicant is apprehending his arrest in connection with CR No.0510 registered with Amalner, Police Station, District Jalgaon for the offences punishable under Sections 326, 325, 323, 504, 506 read with 34 of IPC.

2. It has been vehemently submitted on behalf of the applicant that the incident is stated to have taken place at about 11.30 pm on 5.8.2020; whereas the FIR came to be lodged on 8.8.2020. The role attributed to the present applicant is not under Section 326 of IPC. From the contents of the

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FIR, at the most, it can be said that offences under Section 323, 504, 506 of IPC is attracted, which are bailable. Custody of the present applicant is not required for the purpose of investigation and, therefore, he deserves to be released on bail.

3. Per contra, learned APP strongly opposed the application on the ground that though the FIR says that one Yogesh had assaulted witness Shrawan by means of knife, thereby attracting offence under Section 326 of IPC; yet it was with common intention of the present applicant. The alleged delay has been explained properly in the FIR itself. Custody of the applicant is required for the purpose of investigation.

4. At the outset, it is to be noted that the role attributed to each of the accused is required to be considered along with general allegations those have been levelled in the FIR. Apparently, there appears to be delay. Whether it is fatal or not would be decided at the end of the trial. However, note will have to be taken in respect of

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the delay. As regards the applicant is concerned, it is stated that he had given threat to the informant at about 11.30 pm of 5.8.2020 and thereafter at 11.45 pm, it is stated that the present applicant along with other accused, had gone in front of the house of the informant and pelted stones without any reason and when husband of the informant went to persuade them, accused Yogesh had assaulted him with knife. Present applicant and other two accused are stated to have abused and assaulted him with fists and kick blows. Thus, the alleged assault attributing the offence under Section 326 of IPC is not against the present applicant. Physical custody of the applicant appears to be not required for the purpose of investigation and, therefore, he deserves to be released on anticipatory bail and the interim protection granted by this Court by order dated 29.9.2020 deserves to be confirmed and made absolute. Hence, following order, -

ORDER

- i. The Application stands allowed;
- ii. The order passed by this Court on 29th September, 2020, thereby granting

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interim relief, is hereby confirmed and made absolute.

iii. In the alternative, if the applicant is not arrested formally, in the event of arrest of the applicant in connection with CR No.0510 registered with Amalner, Police Station, District Jalgaon for the offences punishable under Sections 326, 325, 323, 504, 506 read with 34 of IPC, he be released on PR and SB of Rs.15,000/-.

iv. The applicant shall not tamper with the prosecution evidence in any manner; shall cooperate with the investigation and remain present before the IO as and when directed, till filing of charge sheet.

(SMT. VIBHA KANKANWADI,J.)

BDV