

(1)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.854 OF 2020

Vishal Rambhau Pandit = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT

Mr.SR Dheple,Advocate for Applicant;
Mrs.Vaishali-Patil Jadhav,APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI,J.
DATE : 22nd October, 2020.

PER COURT:-

1. Present applicant is apprehending his arrest in connection with Cr.No.156 of 2020 registered with Dharur Police Station, Tal. Dharur, Dist. Beed for the offence punishable under Section 395, 506 of Indian Penal Code.

2. Heard learned Advocate Shri. S.R.Dheple for applicant and learned Additional Public Prosecutor Ms. Vaishali Patil-Jadhav for respondent State.

3. In his First Information Report (FIR) informant - Shriram Prabhakar Pawar alleges that he is Postal Employee, working with Post Office

(2)

Dharur. He had withdrawn amount of Rs.50,000/- from his bank account for giving it to his brothers for agriculture work. He had kept it in his watch-pocket. He was proceeding to his house on the motor-cycle of his brother around 4.00 p.m. on 20.06.2020. When they were on Asardoh road, they were intercepted by 5 persons, who had come on two motor-cycles. He has given description of those persons. Those persons caused the motor-cycle of brother of the informant to fall down. Those persons had then snatched away the cash, mobile phone by assaulting the informant. The Informant received injuries in the said act. The Informant had then chased those motor-cycles with the help of one person. When they found those five boys, then they again chased them; but three of them managed to flee away. Two were caught by mob. They were Vaibhav Salave and Sachin Shirsath. When inquiry about the boys, who had managed to flee away, was made it transpired that the applicant was amongst them.

4. It has been vehemently submitted on behalf of applicant after drawing attention of this

(3)

Court to the contents of above-said FIR that name of the accused is not mentioned in it. His name appears to have been disclosed by co-accused, which is inadmissible. Nothing is required to be seized from the applicant. He is innocent. He has been implicated and therefore, his custodial interrogation is not required.

5. Per contra, the learned Additional Public Prosecutor has strongly opposed the application and submitted that at this stage, the investigation is incomplete. FIR discloses name of the accused. Though his name has been disclosed by co-accused, but it can be seen that that discloser is before the informant and other persons, when police persons were not present. Therefore, such discloser is definitely admissible. The amount of Rs.50,000/- is yet to be recovered, therefore custodial interrogation of the applicant is required.

6. In present FIR, the role attributed to present applicant is that he, along with four boys, had caused the informant to fall down. They had assaulted the informant and then took amount of

(4)

Rs.50,000/- and one mobile phone from the informant. Name of the present applicant is disclosed in the FIR and it is stated that when the two boys, who were caught hold of mob, were inquired, they gave names of their friends who fled away. The evidentiary value of said discloser would be decided at the conclusion of trial, but at this stage, the investigation is incomplete. The amount stolen from informant was not found with those two boys who were caught at the spot. That amount is certainly required to be recovered. The manner in which the offence has been committed is also required to be considered. The informant appears to have sufficient opportunity to see those boys and he has stated that he will be able to identify them, if shown. All the said process can take place after the custody of the applicant is taken and then recovery may follow. Therefore, taking into consideration all these aspects, case is not made out for grant of anticipatory bail. The Application is, hereby, rejected.

(SMT. VIBHA KANKANWADI,J.)

BDV