

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.859 OF 2020

Govind Pralhad Suryawanshi,
Age 33 yrs., Occ. Agri.,
R/o Shivpur, Tq. Shirur Anantpal,
Dist. Latur.

... Applicant

... **Versus** ...

The State of Maharashtra,
Through Police Inspector,
Shirur Anantpal Police Station,
Tq. Shirur Anantpal, Dist. Latur.

... Respondent

...

Mr. R.P. Patwardhan, Advocate for applicant

Mr. S.Y. Mahajan, APP for respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 29th OCTOBER, 2020

ORDER :

1 Present applicant is apprehending his arrest in connection with Crime No.54/2020 registered with Shirur Anantpal Police Station, Tq. Shirur Anantpal, Dist. Latur for the offence punishable under Section 353, 188, 270, 271 read with Section 34 of the Indian Penal Code.

2 Heard learned Advocate Mr. R.P. Patwardhan for applicant and

learned APP Mr. S.Y. Mahajan for respondent.

3 It has been submitted on behalf of the applicant that the alleged incident quoted in the First Information Report has been exaggerated. No specific role is attributed to the applicant. It is the case of the informant that one Narayan Pundlik Narayanpure with two other persons had assaulted and outraged modesty of one Mahananda Gunwant Jadhav. Informant says that when lady had not returned though was referred by police for medical examination by taking entry in the Station Diary, the informant and others had gone to see what has happened to the lady. It is stated that the present applicant and Gunwant Jadhav as well as Mahadeo Jadhav were standing in front of house of Narayanpure. Informant says that those persons were obstructed by them contending that due to the pandemic situation they ought not to have come there that too without mask. It is stated that the present applicant was holding stone, at that time. Informant says that the present applicant and others had manhandled him as well as PSI Swami and thereafter they ran towards house. Informant also says that they were called by the police out of the house, but at that time, the applicant threatened that he would take video of the entire incident and would make it viral on media. In fact, the said lady is the sister of the present applicant. He had gone to the said village to make inquiry about the incident. Applicant had then gone to

the house of Narayan Narayanpure to make inquiry about his behaviour and at that time the said Narayan Narayanpure gave a phone call to police alleging that the applicant and other persons are pelting stones on his house. Police had beaten the applicant and his mother without making any inquiry about the incident. The applicant has not absconded. He is at his native place. His physical custody is not required.

4 Per contra, the learned APP strongly opposed the application and submitted that the police were on duty at the relevant time. They had gone there to take account as to what had happened to the lady, who had tried to lodge the FIR, but since she was injured she was referred for medical examination. In the pandemic situation gathering of persons was prohibited, yet, in derogation to the same the applicant and others had gathered. When police asked them about the same, they had used force against the police authorities. If the applicant is released on anticipatory bail, then the moral of the police personnel would go down.

5 At the outset, it is to be noted that there is a reference of an incident which had happened with a lady on 26.03.2020. The informant who is Police Constable states that he along with other police officers went to the village of the lady to make inquiry, as to why she has not returned to Police Station to lodge report about the incident. He says that when he went in

front of house of Narayan Narayanpure, he found Gunwant Jadhav, Mahadeo Jadhav and present applicant holding stones in their hands. Informant says that they had tried to give advise to the applicant and others but according to the informant, the applicant behaved arrogantly, but then in the FIR itself it is specifically stated by the informant that the applicant and others had thrown the stones on the ground, that means, they have not used it against anybody. The informant has not stated what were the dialogues exchanged by the present applicant and others with the informant, because only use of word 'arrogant' will not be sufficient. He states that all the three persons told the police officers that they will not harm them in any way, and thereafter, they had manhandled the police officers. Here, the fact is required to be noted that the police appears to have not made inquiry, as to why these persons had come in front of the house of Narayan Narayanpure. When any such incident takes place, then the relatives are the persons who would immediately react. The informant says that all these three persons including the applicant fled to their house and thereafter the police party went in front of their house and asked them to come out. Whether this cannot be said to be a high handed act, is a question. When the applicant and others had allegedly fled away from that place the police could have done their work. It is not stated in the FIR that the house, in which the applicant and others had gone, was in the vicinity of the house of Narayan Narayanpure. When police called the

applicant and others out of his house, thereafter it appears to be the natural role on the part of the applicant that he told police that he would do the video recording regarding the arrogance or high handed action by police to be made viral in social media.

6 Though the police persons were under pressure in this pandemic situation as they were protecting the law and order situation as well as effectively handling the situation, which would have conversant spread of virus, but that does not mean that every action of a citizen against police person would stop them from taking legal action. It appears that it was the reaction of the applicant and two other persons when they came to know about the alleged offence, that was committed against their sister. Definitely the applicant and those two persons ought not to have taken law in their hand, but for the said reaction of the applicant the pre-arrest bail of the applicant need not be rejected. There is no question of putting the moral of the police down. Because such incidents will not affect the high moral of police. They are committed to maintain law and order situation as well as any such situation where the presence of police is necessary. The other criteria of the pre-arrest bail are definitely complied with, and therefore, the discretion is required to be used in favour of the applicant. However, at the same time, for his said action of not wearing mask and not taking precaution

he should deposit amount of Rs.10,000/- to the Covid Fund maintained with District Magistrate, Latur, within a period of 15 days from today. On this condition the application deserves to be allowed. Accordingly, it is allowed. Hence, following order.

ORDER

1 In the event of arrest of the applicant Govind Pralhad Suryawanshi, in connection with Crime No.54/2020 registered with Shirur Anantpal Police Station, Tq. Shirur Anantpal, Dist. Latur for the offence punishable under Section 353, 188, 270, 271 read with Section 34 of the Indian Penal Code, he be released on P.R. and S.B. of Rs.15,000/-.

2 The applicant shall not indulge in any criminal activity nor he should tamper with the prosecution evidence, in any manner.

3 He should remain present before the Investigating Officer on Monday, starting from 02.11.2020, between 10.00 a.m. to 02.00 p.m., for a period of one month and cooperate with the investigation.

4 He should deposit amount of Rs.10,000/- to the Covid Fund maintained with District Magistrate, Latur, within a period of 15 days from today.

(Smt. Vibha Kankanwadi, J.)