

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 ANTICIPATORY BAIL APPLICATION NO.865 OF 2020

SURAJ KAILAS PARDESHI

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. H.D. Deshmukh, Advocate for applicant

Mrs. V.N. Patil-Jadhav, APP for respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 22nd DECEMBER, 2020.

ORDER :

1 Present application has been filed for pre-arrest bail by the applicant, who is apprehending his arrest in connection with Crime No.531/2020 registered with Newasa Police Station for the offence punishable under Section 353, 332, 294, 504, 506 of the Indian Penal Code.

2 Heard learned Advocate Mr. H.D. Deshmukh for the applicant and learned APP Mrs. V.N. Patil-Jadhav for the respondent.

3 It has been submitted on behalf of the applicant that perusal of the First Information Report would show that the police party had come to arrest the brother of the present applicant. However, it is stated that the

present applicant intervened and it is his mistake that he was videographing the incident. He was under the impression that police had come to arrest him. His brother has been arrested and has been released on regular bail. The applicant has not scuffled with the informant-Police Officer. In fact, his brother's wife Anjali had lodged a complaint application on 25.05.2020 to the superior Police Officer and demanded the inquiry in respect of illegal behaviour of Police Authority of Newasa Police Station. The Police Authority in order to take revenge has roped the applicant and his family members a false story has been narrated. There is no prima facie case against the applicant involving the offences, under which the FIR has been registered. Physical custody of the applicant is absolutely not required.

4 Per contra, the learned APP opposed the application and submitted that it is to be noted that the brother of the present applicant is facing prosecution in more than 30 offences. The informant got the knowledge that the brother of the present applicant along with his colleagues are fighting in front of Rahul Restaurant. Further, the brother of the present applicant was absconding and wanted in Crime No.17/2020, which has been filed under Section 65(e) of the Maharashtra Prohibition Act, and therefore, the entire Police Authority went. They could not find the brother of the present applicant at that place, and therefore, they went to his house around

12.15 p.m.. The brother of the applicant was present, and therefore, he was being asked by the Police Sub Inspector that they have come to arrest him and he should accompany them. Brother of the applicant refused to go along with them. At that time, the present applicant rushed towards the police party and abused them. He entered into scuffle. When the brother of the applicant was being taken in Government vehicle for bringing him to Police Station, the present applicant was found videographing the incident. When asked about the same he told that he would file an application against the Police Officers and would see that they are suspended, but thereafter he left the mobile there and fled away. Further, it has been submitted on behalf of the prosecution that physical custody of the present applicant is required for the purpose of further investigation and also this is not a fit case where the applicant should be protected, as he was found to be protecting a criminal.

5 At the outset, it is not in dispute that the learned Advocate for the applicant has also admitted that the brother of the applicant is involved in many cases. It appears from the order passed by the learned Additional Sessions Judge while rejecting the application filed by the present applicant that the record, which was before him, showed that the brother of the applicant is involved in more than 30 offences. Even on the day of the incident the informant and other Police Officers had gone there to arrest him.

It could not have been the job of the present applicant to resist the Law to take its own course. The present applicant is not contending that there was any high handed act on the part of the Police Officer against him on that day, then what was the reason for which he was videographing the incident, is a question. When it appears that the applicant was indulged in such activity to avoid the arrest of his brother, then the applicant deserves no discretion at the hands of this Court, in the form of anticipatory bail. The application stands rejected.

(Smt. Vibha Kankanwadi, J.)

agd