

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.884 OF 2020

Yuvraj Mahadev Sable = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT

Mr.AV Lavate, Adv. h/for Mr. SJ Salunke, Advocate
for Applicant;

Mr.NT Bhagat, 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.180 of 2020 registered with Osmanabad (Rural) Police Station, Dist. Osmanabad for the offence punishable under Section 307, 143, 144, 147, 148, 149, 323, 504 of Indian Penal Code.

2. Heard learned Advocate Shri.S.J. Salunkhe for applicant and learned Additional Public Prosecutor Shri.N.T. Bhagat for respondent State.

3. In his First Information Report (FIR) informant Sushren Rama Chandane alleges that his

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nephew Suraj and daughter of Rajabhau Sabale in his village went missing few days prior to report. Informant was returning home at about 6.30 p.m. on 21-08-2020. He was intercepted by 6 persons including the applicant and Rajabhau. They started asking the informant as to why they are taking so much of time to search the girl. The informant claimed innocence. Applicant Yuvraj and one Vishal assaulted the informant on his legs, hands, back etc with iron rod. When the informant fell down, he was assaulted by accused Aakash on his head with sword by saying that he will not keep the informant alive. Other accused persons had then assaulted the informant with stick, fists and kick blows. The informant was rescued by his other nephews. The informant was then taken to hospital. He lodged an FIR while under treatment.

4. It has been vehemently submitted on behalf of the applicant, after drawing attention of this Court to the contents of above-said FIR, that the sword and scyth has been seized from the spot itself. Nothing is required to be seized from the applicant. He is innocent. The applicant is serving in MRRDA, Zilla Parshad, Osmanabad. He was on his

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duty on the date of incident. The distance between the village and Osmanabad is more than 30 kms. He has produced attendance register to support his contention with certificate. The real incidence was that the informant had outraged modesty of the wife of the applicant around 6.30 p. m. after entering the house on the same day under the influence of liquor. After the informant went, his family members came and assaulted family members of the applicant. They had caused damage to the vehicles. Wife of applicant has filed an FIR against the informant and 16 other persons. The applicant 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 the name of the accused. The role attributed to him is assault by iron rod. The said iron rod is yet to be recovered, therefore the custodial interrogation is required.

6. In present FIR, the role attributed to

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present applicant is that he along with others had assaulted the informant. The assaulted by the applicant is by iron rod. Others were stated to be armed with sword, stick, iron rod. Blow of sword is given on head. Blow of iron rod is on back, hands and legs. That iron rod is yet to be recovered. The FIR lodged by the wife of applicant is subsequent to the FIR lodged against the applicant. Further as regards the plea of the applicant that he was present in his office, it can be said that plea of alibi should be proved by accused. The offence is stated to have taken place at 6.30 p.m. Therefore, that plea can not be appreciated at this stage without its proof. The manner, in which the offence has been committed, is also required to be considered. 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