

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**925 ANTICIPATORY BAIL APPLICATION
NO.923 OF 2020**

**ASLAM AMIN TADVI
VERSUS
THE STATE OF MAHARASHTRA**

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Mr.Vijay B.Patil, Advocate for the applicant.
Mr.S.Y.Mahajan, Addl.P.P. for the respondent-
State.

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**CORAM : V.L.ACHLIYA,J.
DATE : 03.12.2020**

P.C.

1] On an apprehension of arrest in connection with Crime No.67/2019 [150] registered at Yawal Police Station, Tq. Yawal, Dist. Jalgaon, for the offences punishable under Section 307, 395, 354, 452, 337, 143, 147, 149, 323, 324, 504, 506 and 427 of the IPC, the applicant has preferred this Application seeking anticipatory bail.

2] Heard learned counsel for the applicant and learned APP for the respondent-State. Perused the first information report and the order passed by the learned Additional Sessions Judge.

3] In brief, it is the contention of the learned counsel for the applicant that the applicant is innocent and law abiding citizen. By referring the allegations made in the first information report, learned counsel submits that no specific allegations have been made against the applicant in commission of the offence. Except mentioning the name of the applicant as accused in the complaint, no specific role has been attributed to the applicant in commission of offence. It is vaguely stated that accused persons formed unlawful assembly along with 25-30 unknown persons and came to his house armed with weapon like stick and pelted stone on the house of the informant. In the incident, the accused named in complaint entered into his house and assaulted him. They also outraged modesty of his aunt Vandanabai and gold ornament worth Rs.25,000/- snatched by the accused specifically named in the complaint. It is submitted that no specific role has been attributed to the applicant in commission of offence. Except alleging that applicant was accompanied with co-accused, no overt act has been attributed to the applicant in commission of offence of assault, criminal trespass and robbery. It

is further submitted that except the applicant all other accused as well as informant are resident of village Adgaon, Taluka Yawal whereas the applicant is resident of village Savkheda Sim, Taluka Yawal. He was not present with other accused at the time of incident. His name has been falsely implicated in the case with malafide intention. The allegations made in the complaint made out no *prima facie* case to connect the applicant with the offence registered against him. On account of such false and frivolous complaint incorporating the name of the applicant, there is likelihood that the applicant may be arrested, humiliated and harassed for no offence committed on his part. It is further submitted that the applicant is selected through staff selection commission and waiting for posting order. Arrest of the applicant would ruin his entire future career. In order to protect the applicant being arrested, humiliated and harassed for no offence committed on his part, the applicant deserves to be extended protection under Section 438 of the Criminal Procedure Code.

4] On the other hand, learned APP opposed the application with contention that name of the applicant is specifically mentioned in the first information report. The applicant was a member of the unlawful assembly formed by the accused persons with an intention to assault the informant and other persons on account of complaint lodged by the informant in respect of earlier incident dated 05.06.2019. It is submitted that in order to conduct investigation, custodial interrogation of the applicant is necessary.

5] I have carefully considered the submissions advanced in the light of overall facts of the case, nature of accusations made against the applicant, role attributed to the applicant in commission of offence, antecedent of the applicant and consequences to follow if protection is not granted to the applicant from arrest. Perusal of the first information report dated 13.06.2019 lodge d by informant in respect of incident dated 12.06.2019 spell out that except mentioning the name of the applicant as an accused being a member of unlawful assembly no specific role or overt act has been attributed to the

applicant in commission of offence. It is vaguely stated that beside 26 persons as named in the first information report, 25-30 persons were the persons being the members of the unlawful assembly came to his house and pelted stones. Few of them were armed with the weapon like stick. So far as act of assault and robbery is concerned, no role has been attributed to the applicant in commission of said offence. The act of assault and robbery has been attributed to person specifically named in the FIR.

/- Thus, except naming the applicant in the first information report, there is no specific role attributed to the applicant in commission of offence. The act of assault and robbery has been attributed to other accused whose names are specifically mentioned in the complaint. It is apparent from the first information report that the applicant is not resident of village where the incident was occurred. The applicant is claimed to be resident of village Savkheda Sim, Taluka Yawal, whereas the incident was occurred at village Adgaon. Accused other than the applicant are also resident at village Adgaon. None of the witness has attributed

any specific role to applicant in commission of offence. In that view, the possibility of false implication of the applicant cannot be ruled out. The arrest of the applicant would lead to serious consequences. The applicant is a young and educated person. He is claimed to be prosecuting Masters Degree in Art. He has been selected for the post of Constable in CAPES, NIA & SSF and Rifleman (GD) in Assam Rifles Examination and claimed to be waiting for posting order. Arrest of the applicant would spoil his future career. In that view, the applicant deserves to be extended protection from arrest under Section 438 of the Criminal Procedure Code. In the facts and circumstances of the case, custodial interrogation of applicant is not required. No recovery to be made from applicant. The grant of anticipatory bail to applicant would not affect the ongoing investigation. I am, therefore, inclined to allow the application. Hence the following order :

ORDER

1] The application is allowed.

2] The interim bail granted vide order dated 15th October, 2020 is confirmed and made absolute on same terms and conditions. The applicant shall appear before the Investigating Officer as and when directed by the Investigating Officer.

3] It is clarified that observations made in the order are prima facie observations made for limited purpose of deciding the present application. None of the observations made be treated as expression of view of this Court on the merit of case of prosecution against the applicant.

4] Application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

DDC