

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.919 OF 2020

Chunnu s/o Hasan Pyarewale
Age: 64 Yrs., occu. Labourer,
R/o Garmal area, Hingoli,
Tq. and Dist. Hingoli. = APPLICANT

VERSUS

The State of Maharashtra,
Through Police Station Officer,
Hingoli Town Police Station,
Hingoli, Tq. And Dist. Hingoli. = RESPONDENT

Mr.Swapnil S.Rathi,Advocate for Applicant;
Mrs.RP Gour,APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI,J.
DATE : 16th December, 2020.

PER COURT:-

1. Present application has been filed under Section 438 of Cr.P.C. by the applicant, who is apprehending his arrest in connection with CR No.420/2020 dated 31.8.2020, registered with Hingoli City police Station, Dist. Hingoli for the offences punishable under Sections 353, 341, 332, 379, 143, 279 and 504 of IPC.

2. Heard learned Advocate for the applicant and learned APP for Respondent-State.

3. It has been vehemently submitted on behalf of the applicant that all the family members of the present applicant have been falsely

(2)

implicated in the case. The information has been lodged by PSI – Gheware of Local Crime branch, who says that he was along with other police staff as he had received secret information about transportation of illegally excavated sand. He then says that they spotted one tractor trolley coming from Bhogaon road. They asked the driver to stop, however, the driver was negligent in driving and wanted to escape and, therefore, he was taking the vehicle in high speed. One motorcycle was also along with him which was going by its side. The tractor was taken from the outskirts of village Garmal. The informant and others were asking him to stop the tractor, however, the tractor driver was not in a mood to listen. Thereafter one more motorcycle, having three person on it, came to rescue the tractor driver. They intercepted the Government vehicle and stopped from chasing the tractor. It was told that if they arrest and seize the tractor then they would be killed. One of the drivers of the motorcycle was asking the tractor driver to operate hydraulic machine to unload the sand. The raiding team was trying to convince them not to take law in their hands. However, those persons were abusing and threatening the police. Four persons, occupying two motorcycles had manhandled the police staff and when the police tried to get some more help from the police force, those persons tried to escape. But, one of them was then caught. When his name and address was asked, he told his name as Nadeem s/o Chunnu Pyarewale, i.e. son of the present applicant and he

(3)

disclosed the name of other accused persons. Thereafter that person was brought to the police station and PSI has lodged the report.

4. It has been further contended by learned Advocate for the applicant that perusal of the FIR would show that name of the present applicant has been revealed by the co-accused, which is inadmissible in nature. Further, now there is nothing to be recovered at the instance of the present applicant. Taking into consideration the age of the applicant as 64 years, it is impossible that he would have indulged in any activity which was alleged against the applicant. At the most, it can be said that the main allegations are against son of the applicant for which the applicant cannot be criminally held responsible. The learned Advocate, therefore, prayed for anticipatory bail.

5. Per contra, learned APP strongly opposed the application stating that though the present applicant, who was very much present at the spot, had knowledge about the fact that the informant and other persons are police officials; yet they have been threatening and restraining them from discharging their duties. The courage, the applicant, his son and others have, can also be gathered when specific statements, giving threats, have been quoted by the informant in the FIR. The offences in respect of illegally excavation of sand are on high rise. The Revenue officers and the police persons, who intercept or prevent such

(4)

persons indulging in such illegal activities, are always targeted. There are instances, in which even there is attempt to commit murder of other Revenue officers or police officers, who had taken objection or prevented for illegal transportation of sand. Physical custody of the present applicant is, therefore, necessary.

6. At the outset, it is to be noted from the contents of the FIR, which are already noted herein above, that the person, who was caught by the police after those four persons had tried to flee away, is son of the present applicant and after enquiry was made with him, police could reveal name of the present applicant. Only on the basis of age of the applicant, it cannot be said that he would not have involved in any offence. But, then the role that is attributed to the present applicant is required to be seen. The threat alleged to have given in chorus; so also there was interception. The important point to be noted is that the informant has not stated that he could take note of the number of the vehicle after he had seen the applicant. But then he says in the FIR itself that after son of the present applicant, who was caught hold of them on the spot, was enquired as to what is the number of the tractor; thereupon Nadeem has disclosed the number of the tractor. Further the contents of the FIR would show that the informant and others might have been intercepted. But, then, in fact, the informant was along with five police persons, he himself and the driver of the

(5)

Government vehicle. It is interesting to say that they could not over-power the four persons and one driver and then he was required to depend on the information that was given by the co-accused. The informant also states that the tractor driver had emptied the tractor at the said place and went away. Under such circumstance, nothing is required to be seized at the instance of the applicant. Further, it is not pointed out that he has any criminal antecedents. Though the considerations are different; yet the fact is required to be noted that Nadeem, who was taken in custody at the spot and was in police as well as Magisterial custody, has been released on regular bail. Therefore, the present application deserves to be allowed, however, subject to stringent conditions. Hence, following order, -

ORDER

- i. The Application stands allowed.
- ii. In the the event of arrest of the applicant in connection with CR No.420/2020 dated 31.8.2020, registered with Hingoli City police Station, Dist. Hingoli for the offences punishable under Sections 353, 341, 332, 379, 143, 279 and 504 of IPC, he be released on PR of Rs. 30,000/- with two sureties of Rs. 15,000/- each.
- iii. The applicant shall not tamper with evidence of the prosecution in any

(6)

manner and shall not indulge in any criminal activity.

iv. The applicant should remain present before the Investigating Officer on every Monday and Friday between 10.00 AM to 12.00 PM till filing of charge sheet.

(SMT. VIBHA KANKANWADI,J.)

BDV