

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

930 ANTICIPATORY BAIL APPLICATION NO.942 OF 2020

Atul s/o. Rajendra Kumbhar @ Jagdale
Age: 21 years, Occu.: Study,
R/o. Rahul Nagar Saldarwadi Dondiacha,
Tq.Shindkhed, Dist.Dhule ..Applicant

VERSUS

The State of Maharashtra
Through P.I.
Dondiacha Police Station,
Tq.Shindkheda, Dist.Dhule. ..Respondent

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Advocate for Applicant : Shri M.R.Wagh
APP for Respondent-State : Shri S.D.Ghayal

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CORAM : M.G.SEWLIKAR, J.

DATE: 22nd December, 2020

PER COURT:-

1. This is an application preferred under Section 438 of the Code of Criminal Procedure for anticipatory bail.

2. Facts leading to this application are that, the father of the applicant was admitted in the hospital as he had consumed poison under the influence of alcohol. He was admitted in the Civil Hospital, Dondaicha. The hospital where the father of the applicant was admitted was a dedicated Covid Health Center. The Medical Officer, who is the informant, initially was reluctant

to admit the father of the applicant there as it was a dedicated Covid Health Center. The applicant was not ready to listen and had gone berserk. He started arguing with the informant. Considering the condition of the patient, the informant started treatment. After condition of the patient was improved, the informant advised the applicant to shift the patient to some other hospital, to which the applicant was not ready. He created a scene there and assaulted the informant. He was not allowing the informant to prepare the papers of discharge and was not ready to accept the same. It is alleged that the applicant damaged the door of the cabin. Thereafter, the informant lodged the complaint in the Police Station Dondaicha, Dist.Dhule, on the basis of which crime under Sections 353, 143, 147, 506, 427, 188, 269, 270 of the Indian Penal Code, Section 11 of the Maharashtra Covid-19 Regulation, 2020, Sections 2, 3 and 4 of the Epidemic Diseases Act, 1897 and Section 37(1)(3), 135 of the Maharashtra Police Act, 1951, came to be registered at Dondiacha Police Station, Dist.Dhule.

3. Heard Shri M.R.Wagh, learned counsel for the applicant and Shri S.D.Ghayal, learned APP for the respondent-State.

4. Shri Wagh, learned counsel for the applicant submitted that the applicant is a student. He argued that the father of the applicant was in critical condition. He was in need of immediate treatment. In the heat of passion only voices were raised. The glass was already broken. The applicant did not break the glass. The applicant did not assault the informant. He argued that the FIR shows that after one hour of the incident, the applicant had shifted the patient i.e. his father to some other hospital. He argued that this chronology of the events clearly shows that the applicant did not assault the informant and was ready to take the patient to some other hospital.

5. Shri Ghayal, learned APP for the respondent-State submitted that it was dedicated Covid Health Center. Despite that the informant was ready to treat the patient considering his critical condition. But the applicant assaulted the informant as the informant was not ready to give the treatment. He argued that such incidents are increasing day by day and the Medical Officers are being targeted for no reason. The Medical Officers, during pandemic period, discharged their duties at the cost of their own lives and their family lives. He submitted that offence under Section 353 of the Indian Penal Code is clearly made out and this being a serious offence, the applicant cannot be released on anticipatory bail.

6. On perusal of the FIR, it is seen that the applicant shifted the patient within one hour from the place of the incident. The incident took place on 24-08-2020 i.e. during pandemic period. The applicant is a student. From the allegations made in the FIR, it appears that custodial interrogation of the applicant is not necessary. Hence, I deem it appropriate to confirm the interim anticipatory bail granted earlier on the same terms and conditions.

(M.G.SEWLIKAR)
JUDGE

SPT