

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1118 OF 2020

Akash Daga Koli = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT

Mr.SP Brahme, Advocate for Applicant/s
Mr.SY Mahajan, APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 15th December, 2020.

PER COURT:-

1. Present application has been filed seeking an anticipatory bail as the applicant is apprehending his arrest in connection with CR No. 106/2020 dated 25.8.2020 registered with Dondaicha Police Station, District Dhule for the offence punishable under sections 353, 143, 147, 506, 427, 188, 269, 270 of IPC and Under Sections 11 of the Maharashtra COVID-19 Prevention Act, 2020 and under Sections 2, 3 and 4 of Epidemic Diseases Act, 1897 and under Section 37(1)(3) read with 135 of The Maharashtra Police Act.

2. Heard learned Advocate and learned APP

appearing for respective parties.

3. It has been vehemently submitted on behalf of the applicant that the information has been lodged by Dr. Prafulla Balchand Dugad, who is serving as Medical Officer with Sub-District Hospital, Dondaicha, for the incident that had taken place on 24.8.2020. It is stated that, a patient by name Rajendra Kumbhar was brought by his son viz. Atul Rajendra Kumbhar. It was informed that Rajendra had consumed liquor mixing it with insecticides. The informant therefore gave him saline with injection and he explained the process for stomach wash and it was also stated that the tube that would be inserted may cause him some problem and if he does not vomit, then it will have to be repeated. It is further stated that once the tube was inserted and then he vomited; yet it was required that tube should be inserted once again. Twice the said procedure was done; still Rajendra was facing the pains. The informant then asked the nurse to bring the relatives of the patient. The informant started explaining son of the patient that it was not proper on their part to make crowd

(3)

and as the pandemic situation is increasing, they should leave the place and shift the patient to Non-Covid Center. It was also informed that the Sub-District hospital, Dondaicha has been declared as Dedicated Covid Health Centre. The son of the patient then started abusing and speaking arrogantly with the informant when he was trying to explain him and asking him to call ambulance; yet he was adamant. The informant then started writing Reference letter and also an MLC. But, at that time, present applicant and other 8-10 persons rushed towards the informant. The present applicant threatened the informant that the patient should not be shifted nor they would sign on the Reference card. The informant was then by such acts was restrained from discharging his official duties. The mob then caused damage to the Government property.

4. Learned Advocate for the applicant further submitted that the applicant is absolutely not related to the patient and in fact, he was present in the hospital as his relatives were admitted as they were affected by COVID-19. He had

(4)

gone there to supply certain food items and he has not done any such act which would amount to deterring the public servant from discharging his official duties. The applicant has been unnecessarily roped in the offence. Custodial interrogation of the applicant is not required. He is ready to co-operate with the investigation.

5. Per contra, learned APP submitted that statements of the witnesses have also been recorded. The informant as well as the witnesses have specifically named the applicant and the acts done by them. When the informant and his staff were discharging their official duties in such pandemic situation, then unnecessarily dispute was raised and chaos was created. The government property has been damaged. The applicant does not deserve any kind of sympathy.

6. At the outset, it is to be noted that the power to release an accused on anticipatory bail has to be exercised sparingly and when there is some evidence against the accused, then the Court should restrict its powers.

7. In the instant case, the applicant has come with a case that he was neither the relative nor any way concerned with admission or treatment of the patient, viz. Rajendra Raghunath Kumbhar. According to the applicant, he had gone to the hospital for supply of certain articles to his relatives, who were admitted in the hospital. It is to be noted that the applicant has not produced any document/s on record to show that any of his relatives was admitted with Sub-District hospital, Dondaicha, which was then declared as Dedicated COVID Health Centre by the Government. Further, as per the Standing Operating Procedure (SOP), none of the patients, who has been infected with Corona virus, was allowed to meet the relative. The food items were supplied by the Government. Under such circumstance, the applicant has not shown plausible reason for his presence in the hospital at the relevant time. He admits his presence at the material time at that place. Further, it is to be noted that his name has been specifically mentioned by the informant and specific role is also attributed to him. There was no reason for the

(6)

informant to implicate the present applicant as the applicant is not coming with a case of any enmity between him and the informant at any earlier point of time. The statement of the eye-witness also shows that the present applicant had threatened the informant. Further, it is to be noted that, son of the patient is stated to have caused damage to the cabin glass in the hospital. Here, the provisions of Sections 143 and 147 of IPC have also been invoked. Though this Court had granted interim relief to son of the patient, it can be seen that the said application is still pending. Under such circumstance, when specific role is attributed to the applicant and the applicant is alleged to have done the said act when the doctors and medical staff were discharging their duties irrespective of their health and work pressure due to pandemic situation and when the informant was asking them to shift the patient after giving preliminary treatment to the Non-covid centre, the applicant and the co-accused ought not to have indulge in such activities. If such acts are not curbed and prevented, then the public servants may get feeling that their interest is not protected and their

(7)

lives are put to jeopardy which may affect their duties. Therefore, no case is made out to grant anticipatory bail to the applicant by exercising the said extraordinary powers.

8. In the result, the application sans merit, deserves to be rejected and accordingly it is rejected.

(SMT. VIBHA KANKANWADI,J.)

BDV