

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1056 OF 2020
with
CRIMINAL APPLICATION NO.2126/2020

. Vikas @ Sunny Bhanudas Gore = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT/S

Mr.Sachin S.Deshmukh,Advocate for Applicant;
Mr. AM Phule,APP for Respondent-State;
Mr. SD Tawshikar, Adv. to assist APP

CORAM : SMT.VIBHA KANKANWADI,J.
DATE : 17th December, 2020.

PER COURT:-

1. Criminal Application No.2126/2020 moved to assist APP is allowed and disposed of.

2. Present application No.1056 of 2020 has been filed by the original accused for getting anticipatory bail under Section 438 of Code of Criminal Procedure as he is apprehending his arrest in connection with Cr. No.1120 of 2020 dt.15-07-2020 registered with Shrirampur City Police Station, Tal. Shrirampur Dist. Ahemdagar for the offence punishable under Sections 143, 147, 148, 149, 326, 324, 323, 504, 506 of Indian Penal Code and Section 37(1)(3) punishable under Section 135 of Maharashtra Police Act.

3. Heard learned Advocate Shri. S.S.Deshmukh for the applicant and learned APP Shri. A.M.Phule for the State assisted by learned Advocate Shri.S.D.Tawshikar

for original informant.

4. It has been vehemently submitted on behalf of the applicant that the First Information Report lodged by one Sunil Umaji Hiwrale, contending that his daughter, aged 5 years, was playing in open space in front of house of one Nitin Lokhande at about 6.00 p.m. On 14-07-2020, Nitin Lokhande started abusing her, therefore, informant went to advice him. Nitin got annoyed and started abusing the informant. When wife of the informant came to persuade, the neighbours, viz. Suresh Shirsath, Aatish Shirsath, Satish Shirsath, Sandeep Lokhande, Sanjay Khillare and Vicky Gore, came and started assaulting him with kicks and fist-blows. When wife of the informant was intervening, at that time, Nitin Lokhande assaulted her with an iron rod and the applicant assaulted her with a wooden log. Nitin gave threat to kill them. Informant's wife has sustained injury to her nose. The FIR has been filed on 15-07-2020.

5. It has been further submitted that the FIR has been filed belatedly. It appears to be a concocted story. All the neighbours appear to have been roped. The investigation is over and charge-sheet has been filed. The wooden log as well as iron rod have been seized from the spot itself at the time of executing spot panchnama. The medical certificate on record shows two injuries on person of wife of the informant. They could not have been caused by stick. Statements of the witnesses have already been recorded. Therefore, physical custody of the applicant is not required. Applicant is not related to other accused and he has no concern with the dispute between informant and Nitin Lokhande. Main accused Nitin Lokhande is also released

on bail. The applicant deserves to be released on bail and he would abide by any terms those may be imposed.

6. Per contra, learned APP assisted by Advocate for informant, strongly opposed the application. Though the charge-sheet has been filed; yet that does not infer that investigation is over as against present applicant. Injured has received serious injuries to her head. Physical custody is required for interrogation.

7. At the outset, it will have to be noted that charge-sheet has been filed and, therefore, an impression has been created that the investigation is over. The weapon allegedly used in the commission of the crime by present applicant appears to have been seized from the spot. However, it is required to be noted as to what evidence is appearing against present applicant. There are eye witnesses to the incident. The medical certificate shows injury – Haematoma, swelling over forehead. CLW over nose 4 x 2 x 1 cm and contusion abrasion on left eyebrow. Cause of injury is stated as "Hard and Blunt object." Nature of injury is stated to be grievous. Therefore, taking into consideration the nature of the injuries and the manner in which it is stated to have been caused, requires consideration. The dispute had started on a very trifling matter. If the applicant had no relations with other accused, there was no reason for him to interfere. The applicant has not come with a case that he had gone to the spot to separate the fighting parties. He has not given his own story as to why he would have been implicated. He does not say that there was dispute between him and the informant in the past. Another fact to be noted from the charge-sheet that, it is filed under Section 299 of Code of Criminal Procedure against him. That means as

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this applicant went absconding, police have invoked the said procedure. The applicant appears to have avoided his arrest in the past. This conduct of the applicant is also required to be considered. Hence, no cause is made out to use the extra-ordinary provision and exercise discretion in favour of such applicant. The application deserves to be rejected. Accordingly, it is rejected.

(SMT. VIBHA KANKANWADI,J.)

BDV