

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 289 OF 2020

Yogesh Nanabhau Ozarkar

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Ms. Prachiti Deshpande, Advocate for the Applicant.

Mr. S. S. Pednekar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 4th February, 2020

PC :

1. This is an application for anticipatory bail in C.R. No. 119 of 2020 registered with Hinjewadi Police Station, Pune for offences punishable under Sections 307 r/w Section 34 of Indian Penal Code and Section 4 (25) of Arms Act & Section 37(1) r/w 135 of Maharashtra Police Act, 1951.

2. The FIR was lodged on 18th January, 2020. The applicant preferred application for anticipatory bail before Sessions Court which has been rejected by order dated 28th January, 2020.

3. The prosecution case is that the brother of injured lodged FIR stating that on the ground of water supply of the private company quarrel arose between Gorakh Rajaram Ozorkar and accused. The

applicant and two other accused assaulted Gorakh by means of sword due to which he sustained grievous injury on his head and hand. Hence, the FIR was registered on 18th January, 2020.

4. Learned counsel for the applicant submits that applicant has been falsely implicated in this case. The two other accused who were attributed role of assaulting the injured were granted anticipatory bail by the Sessions Court. It is submitted that during the course of investigation it was found that the said accused were not present at the place of incident at the relevant time. Thus, the version of the complainant and eye witnesses is doubtful and cannot be accepted. If the co-accused who were attributed role of assault were not found present at the scene of offence the applicant cannot be subjected to custody as there is doubt about version of the witnesses. It is further submitted that on account of dispute between two parties FIR has been registered against applicant and others. The injuries sustained by the injured is not sufficient to attract Section 307 of Indian Penal Code. The applicant is willing to co-operate with the investigation by attending the Investigating Officer. The custodial interrogation of the applicant is not necessary.

5. Learned APP submitted that the co-accused were granted anticipatory bail on the ground that they were present at some other

place, at relevant time. As far as applicant is concerned, the complainant and injured has attributed specific role to the applicant. The investigation revealed complicity of the applicant in the commission of crime. The applicant had assaulted the injured by sword. The injured had sustained injuries in the nature of CLW on the head and right hand.

6. I have perused the FIR and other documents. Specific overt act of assault by sword has been attributed to the applicant. On the basis of anticipatory bail granted to co-accused, the applicant can not be granted anticipatory bail in the light of role attributed to the applicant as the version of the injured and the applicant is supported by the injury certificate. In view of the aforesaid circumstance, no case for grant of anticipatory bail is made out.

7. Hence, I pass the following order :

ORDER

Anticipatory Bail Application No. 289 of 2020
stands rejected and disposed of accordingly.

(PRAKASH D. NAIK, J.)