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

ANTICIPATORY BAIL APPLICATION NO.702 OF 2020

Mangesh Vitthal Bhorekar Applicant

Vs.

State of Maharashtra by Respondents
Velha P.S., Pune

Ms. Rama Subramanian, Advocate for Applicant.
Mr. S.H. Yadav, APP for the State.

Coram : NITIN W. SAMBRE, J.
Date : 29th JULY, 2020

P.C.:

1. This is an application under Section 438 Code of Criminal Procedure seeking pre-arrest bail in Crime No. 96 of 2018, registered on 29th September, 2018 for an offence punishable under Sections 307, 384, 143, 147, 148, 149, 506 (II), 427 of Indian Penal Code.

2. The case of the prosecution against the applicant is while executing work on behalf a private contractor, of laying of overhead transmission line, the present applicant formed an unlawful assembly

alongwith the other co-accused and has assaulted the workers/labours. As such the offence in question. It is alleged in the complaint that the applicant demanded Rs. Ten Lakhs and assaulted the complainant with stones, iron rod etc.

3. Learned counsel for the applicant while trying to make out the case for grant of pre-arrest bail would urge that the offence is alleged to have taken place almost two years back. The act on the part of the non applicant of not arresting the applicant for two years justifies the claim of the applicant, that his custodial interrogation is not warranted. Learned counsel would invite attention of this Court to the complaint lodged by one Kamini, close relative of the applicant resulting into the registration of Crime No. 97 of 2018, punishable under Sections 354, 143, 147, 148, 149, 506 (II) of Indian Penal Code and Section 3(25) of the Indian Arms Act.

4. According to her, it is the complainant and his accomplices who have committed the offence by trespassing in the house of the present applicant and the applicant is falsely implicated in the present

Crime i.e. 96 of 2018. She would further urge that the applicant is an social activities and his various acts of supporting the public cause might have invited ire of authorities, which has resulted into registration of an offence against him. It is also submitted that the applicant is acquitted in almost all offences except for the present one and one more. She would urge that some of the accomplices of the complainant are already accused in MCOCA case and it is upon their threat, the applicant was required to show resistance, which has resulted into registration of the present false offence. She would further urge that the investigation in the matter is already complete as the charge-sheet is filed. By inviting attention of this Court to the Injury Certificates of the victims, she would submit that its a case of simple injury and not attempt to murder. She would urge that the custodial interrogation of the applicant is not warranted as the offence would at the most to be termed under Section 323 and 307 of Indian Penal Code. She submits that the applicant is very much available for investigation and if the protection is granted by this Court, the applicant shall attend the Police Station and co-operate the Investigating Officer as and when directed.

5. So as to substantiate her contention, the applicant has drawn support of the judgment of the Hon'ble Apex Court in the matter of Joginder Kumar Vs. State of Uttar Pradesh, reported in A.I.R. 1994, Supreme Court, 1349. As such according to her prayer for grant of bail needs to be granted.

6. Learned APP submits the applicant is named in F.I.R. with a specific role. According to him, there are six offences registered against the applicant. Even if he is acquitted in some of them, the Court cannot be oblivious to criminal intention. It is further claimed that there is sufficient evidence on record to infer prima facie involvement of the applicant in the crime. As such rejection is sought.

7. Considered submissions.

8. The present application in my opinion is very much maintainable as the change in circumstances has sought to be relied upon by the learned counsel for the applicant i.e. of filing of the charge-sheet.

9. As far as the material available on record as against the present applicant is concerned, the medical certificate depicts that the victims have suffered injuries on neck and head. Statement of eye-witness was recorded in which the applicant is specifically named with active participation in the commission of crime.

10. The fact remains that he was specifically named in the F.I.R. and in the charge-sheet, he is shown to have been absconding. Apart from above, even if the co-accused has been released on regular bail, that by itself will not permit him to claim parity.

11. The material available on record i.e. statement of eye witnesses demonstrates prima facie involvement of the applicant in the crime. Apart from above, there are criminal antecedents as against the present applicant. As such in my opinion, no case for grant of pre-arrest bail is made out. The application as such fails, stands rejected.

12. The application is disposed of.

(NITIN W. SAMBRE, J.)