

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

26 ANTICIPATORY BAIL APPLICATION NO.279 OF 2021

GANESH S/O RAMRAO WANKHEDE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Pavan P. Uttarwar.

APP for Respondent/State: Mrs. R. P. Gaur.
...

CORAM : **MANGESH S. PATIL, J.**
DATE : 19 April 2021.

P.C.:

. The Applicant happens to be one of the three Accused, his father and minor brother being other co-Accused, seeking bail in the even of his arrest in connection with Crime No.282 of 2020, registered with Ardhapur Police Station, District Nanded, for the offence punishable under Sections 353, 332 read with Section 34 of the Indian Penal Code.

2 Shortly stated the facts leading to the filing of this application are to the effect that the informant, who happens to be the senior technician working with MSEDCL, alongwith his staff were on official duty on 22 October 2020 in the afternoon hours. The work of shifting of electricity supply line was undertaken. The electricity pole was required to be shifted but the Applicant, his father and brother assaulted him. FIR was lodged and crime was registered for the

aforementioned Sections.

3 The learned Advocate for the Applicant would submit that the Applicant is not a criminal. No specific and precise allegations are levelled against him. No weapon is said to have been used. It is only when the Applicant and his family members tried to object to shifting of the electricity pole that they are being falsely implicated. Nothing is to be recovered from and discovered by the Applicant. His father has been granted regular bail. The Applicant is a student and ready to cooperate the investigating officer. There is no need for resorting to custodial interrogation.

4 The learned APP opposes the application. She submits that the offence is serious. Even it is triable by the Sessions Court. There are independent witnesses, who corroborate prosecution version about Applicant alongwith his family members having obstructed the public servant in discharging his official duty and have used criminal force against him. The offence being serious, custodial interrogation of the Applicant is necessary and the application be rejected.

5 I have carefully gone through the papers of investigation. As can be appreciated, accepting the allegations at their face value,

the incident seems to have taken place at the spur of moment, without there being any premeditation. As can be gathered, in fact the pole was to be erected at a specific point. Because of some impediment perceived by the informant to the effect that the pole cannot be erected at the place where it was decided to be erected, he had taken a decision at the eleventh hour to shift the place where it was attempted to be erected. Since it appears that the place where it was ultimately decided to be erected happened to be in front of the house of Applicant, it was but natural that all the family members objected to it. It is, thereafter the incident is stated to have taken place. It is, therefore, quite clear that there was no premeditation.

6 Though the allegations are about the brother of the Applicant, having slapped the informant, and though the informant himself has not stated about the Applicant having slapped him, the witnesses have come with such version.

7 Be that as it may, considering the aforementioned state of affairs, when there are no criminal antecedents, the Applicant is a student, the incident having taken place at the spur of moment and more so when there are no allegations about the Applicant having not obeyed the terms and conditions imposed while granting him ad-interim bail, it deserves to be confirmed.

8 The applications is allowed. The ad-interim anticipatory bail granted to the Applicant by order dated 23 March 2021 stands confirmed with the same terms and conditions with further clarification that the condition as regards attendance would be in operation only till filing of charge-sheet.

[MANGESH S. PATIL, J.]

ndm