

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.482 OF 2021

PRAVIN DAGAJI PATIL
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Girish S. Rane
APP for Respondent-State : Mr. N. T. Bhagat
...

CORAM : MANGESH S. PATIL, J.

DATE : 03.07.2021

PER COURT :-

The informant is apprehending arrest in connection with Crime No. 0037 of 2021 registered with Marwad Police Station, District Jalgaon for the offences punishable under Sections 326, 325, 323, 504 and 506 read with Section 34 of the Indian Penal Code and he is seeking bail in the event of his arrest.

2. The First Information Report (FIR) has been lodged by the informant on 31.03.2021 alleging that on 27.03.2021 at about 8.00 a.m. the applicant and the other two co-accused arrived at his house and started asserting that the place where he was intending to carry out construction of his house belonged to them. When he tried to convince them by saying that the plot was allotted to him by the Grampanchayat,

they got annoyed and abused and assaulted him. When his son Devidas tried to intervene, even he was assaulted. They left the spot by threatening the father and the son of the dire consequences, if the house was constructed. It is alleged that the applicant assaulted the informant with a stick on his left hand. The matter was reported to police and the offence was registered.

3. Learned Advocate for the applicant would emphasize that when the matter was immediately reported by the son of the informant by name Devidas, only a non-cognizable report was registered for selfsame incident. There was no reference in that report regarding use of stick much less by the applicant. It is only belatedly, after lapse of four days, the present FIR has been lodged with improvised version. The circumstance is clearly indicative of concoction and false implication.

4. Learned Advocate would further submit that the applicant is already protected by way of interim relief by order dated 11.05.2021. He has obeyed all the terms and conditions subject to which he was granted interim relief and his custodial interrogation is not necessary. He is ready to cooperate the investigation agency and the ad-interim relief may be confirmed.

5. Learned APP strongly opposes the application. He points

out that though the FIR has been apparently lodged belatedly the medico-legal certificate of the applicant would show that he was admitted in the hospital on the very same day of the incident i.e. 27.03.2021 and was treated for a fracture injury to the distal end of radius which is opined to be grievous injury caused by hard and blunt object. The certificate further points out that even while recording the history, it was specifically informed that the injury was caused by a wooden stick. He would, therefore, submit that at this juncture, not much importance be attached to the delay in registering the crime.

6. Learned APP would submit that since the allegations regarding use of stick are specifically attributed to the applicant and even the authorship of the grievous injury can be fastened to him, his custodial interrogation would be necessary and the discretionary relief of anticipatory bail cannot be granted to him.

7. I have carefully gone through the papers of the investigation and considered rival submissions.

8. It does appear that initially only a non-cognizable report was recorded for the reasons which are not very clear at this juncture. It is equally true that while registering the non-cognizable report, there is no reference to the use of stick. Pertinently, as has been pointed out by learned Advocate for the applicant the medico-legal certificate issued by

the Medical Officer of Rural Hospital, Amalner clearly indicates that the informant was taken to that hospital on the same day of the incident. The incident is alleged to have taken place on 27.03.2021 at about 8.00 a.m. and he was brought to the hospital at 8.30 p.m. While recording the history, it has been specifically reported that the incident had taken place at 8.00 a.m. and use of wooden stick was also narrated. As can be seen, one of the two injuries sustained by the informant is a fracture to distal end of radius. It is in view of such record, in my considered view, no importance can be attached to the fact of delay in lodging the FIR and registering the crime.

9. Going by the allegations, there is a strong motive for the applicant and the co-accused, as they were objecting to the construction being carried out by the informant, asserting that the piece of land belonged to them.

10. Taking into account the specific and the exclusive role attributed to the applicant of causing grievous injury, there is an *ex-facie* involvement of the applicant in the commission of the crime and he cannot be granted discretionary relief of anticipatory bail.

11. Needless to say that if the applicant is alleged to have assaulted the informant by wooden stick, which has not been discovered in spite of having availed ad-interim anticipatory bail by the order dated

11.05.2021, the application deserves to be rejected.

The application is dismissed.

12. The learned Advocate for the applicant at this juncture prays that the *ad-interim* protection may be continued for some time to enable the applicant to approach the Supreme Court. The request is rejected.

(MANGESH S. PATIL)
JUDGE

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