

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.495 OF 2021

Pradip Vishnu Gapat

... **APPLICANT**

VERSUS

The State of Maharashtra

... **RESPONDENT**

.....
Dr. Shri R.R. Deshpande, Advocate holding for
Miss Priyanka R. Deshpande, Advocate for applicant
Shri S.W. Munde, A.P.P. for respondent – State
.....

CORAM : R. G. AVACHAT, J.
(VACATION COURT)

DATE : 25th MAY, 2021

ORDER :

This is an application for bail under Section 438 of the Code of Criminal Procedure. The applicant is apprehending arrest in connection with Crime No.28/2021, registered at Yermala Police Station, Taluka Kallam, District Osmanabad for the offence punishable under Sections 307, 323, 504, 143, 144, 147, 148, 149 of the Indian Penal Code.

2. The First Information Report (F.I.R.) has been lodged by the victim himself on 15/2/2021 relating to the

incident dated 3/2/2021. It is alleged in the F.I.R. that, the informant along with his 5 friends visited folk dancing centre (Gauri Loknatya Kala Kendra) at Wadgaon, District Osmanabad. The informant would regularly visit the said place. One Neha Parbhanikar was one of the dancers. The informant was fond of her dance. During his each visit, he would ask Neha to perform. One Sunil Shelke accompanied by 4 unknown persons came to the informant while Neha's dance was in progress. Sunil questioned the informant why did he every time ask Neha to dance. Sunil further informed him to have emotional relations with Neha. He questioned the informant whether he had any relation with Neha. Sunil (co-accused) thereupon assaulted on the head of the informant with an iron rod. Two of the other four in the company of Sunil assaulted the informant on his head with beer bottles. The remaining two assaulted him with fist blows. The companions of the informant fled with fear. The informant became unconscious. He was first rushed to Government Hospital at Osmanabad and then admitted to Ashwini Hospital at Solapur, where he lodged the F.I.R.

3. Shri Deshpande, learned counsel for the applicant would submit that, the name of the applicant does not figure in the F.I.R. Description of unknown assailants has not been

given in the F.I.R. The applicant is B.A. B.Ed. and aspiring for a Teacher's job. If the applicant is arrested for no offence on his part, it will ruin his career. The learned counsel urged for mercy.

4. The learned A.P.P. would, on the other hand, submit that the offence is serious one. The involvement of the applicant has been surfaced during investigation. He, therefore, urged for rejection of the application.

5. The F.I.R. has been lodged 12 days after the alleged incidence. The name of the applicant does not figure in the F.I.R. No description of the unknown assailants has been given so as to facilitate their identification. Co-accused except accused No.1 Sunil have been released on regular bail. I have perused the set of police papers to find that none of the female folk dancers or anyone serving at the dance centre has named the applicant. Had the applicant been regular visitor there, his name could have been figured in the statements of those persons. It has simply been stated that the name of the applicant was surfaced during investigation. There is, however, prima facie nothing to suggest as to who named him as one of the culprits. In a statement of the informant recorded on 17/3/2021, he has attributed the

applicant with fist blows.

6. On scrutiny of the police papers those were made available for perusal, I could not come across any material which could be said to be relevant to indicate the involvement of the applicant in the alleged offence. It is reiterated that, neither the name of the applicant nor any description of unknown assailant has been given in the F.I.R. He is alleged to have given fist blows to the informant. The applicant is said to be B.A. B.Ed. and aspiring for Teacher's job. Considering all these facts, I am inclined to grant him relief. Hence the following order :

ORDER

(i) The application is allowed.

(ii) In the event of arrest of the applicant in connection with Crime No.28/2021, registered at Yermala Police Station, Taluka Kallam, District Osmanabad for the offence punishable under Sections 307, 323, 504, 143, 144, 147, 148, 149 of the Indian Penal Code, the applicant shall be released on bail on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the

like amount.

(iii) The applicant shall appear before the investigating officer as and when required. The applicant shall not tamper with the prosecution evidence.

**(R. G. AVACHAT)
JUDGE**

fmp/-