

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 664 OF 2021

Ashok Vitthalrao Neharkar,
Age : 32 years, Occu. Agri.,
R/o Pisegaon, Tq. Kaij,
District Beed

APPLICANT

VERSUS

The State of Maharashtra,
through Investigation Officer,
Kaij Police Station,
District Beed

RESPONDENT

Mr. S.R. Kedar, Advocate for the applicant
Mr. V.S. Badakh, A.P.P. for the respondent/State

CORAM : MANGESH S. PATIL, J.

DATE : 01.07.2021

PER COURT :

Heard.

2. This is an application under Section 438 of the Code of Criminal Procedure as the applicant, who happens to be the accused in Crime No.257/2021 registered with Kaij Police Station, District Beed for the offences punishable under Sections 307, 326, 504, 506 read with Section 34 of the Indian Penal Code, is apprehending his arrest.

3. The FIR alleges that the applicant was of a firm opinion about the informant having damaged the common pipeline. It is alleged that in

the night intervening 19.05.2021 and 20.05.2021, the applicant alongwith co-accused arrived in the yard of the informant's farmhouse where he was asleep. The applicant was carrying a sickle and with an intention to kill him, dealt with it on his (informant's) head. The other accused are alleged to have exhorted him by hurling abuses. The matter was reported to the police and the offence was registered.

4. The learned Advocate for the applicant would submit that a false and concocted FIR has been lodged just to take a revenge and as a counterblast to couple of earlier FIRs lodged by the family members of the applicant in respect of the selfsame dispute regarding damage to the common pipeline. No serious injury was sustained by the informant so as to constitute the offences punishable either under Section 307 or Section 326 of the IPC.

5. The learned Advocate would further submit that this is a sowing season. Custodial interrogation of the applicant is not necessary. The rest of the accused have been granted bail. He is ready to cooperate the Investigating Officer and may be granted anticipatory bail.

6. I have heard the learned A.P.P. and perused the order passed by the learned Additional Sessions Judge refusing to grant anticipatory bail to the applicant.

7. Though there are counter FIRs and the present being latter in point of time, the circumstance can also be looked at from another angle.

There must have been a strong motive for the applicant to assault the informant as is clear from the earlier disputes.

8. There is no dispute about identity since the informant has been knowing the applicant.

9. The order passed by the learned Additional Sessions Judge while rejecting similar application of the applicant clearly refers to a medical certificate of the informant certifying that there was an incised grievous injury on the face extending from behind the ear, caused by a sharp weapon.

10. Taking into account the fact that the assault with a sickle is specifically attributed to the applicant coupled with the nature of injury sustained by the informant, there is prima facie involvement of the applicant in commission of the serious crime inasmuch as a sharp edged weapon has been used to inflict an injury on the vital part of the body i.e. head. Needless to state that the weapon will have to be recovered by resorting to custodial interrogation of the applicant.

11. This is not a fit case where the discretion can be exercised in favour of the applicant.

12. The application is rejected.

[MANGESH S. PATIL]
JUDGE

