

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 900 OF 2021

Shaikh Abdul Mujahed s/o Shaikh Abdul Rahim ...Applicant

Versus

The State of Maharashtra ...Respondent

Advocate for the Applicant : Mr. S. S. Thombre

APP for the Respondent – State : Mr. V. S. Badakh

...

CORAM : V. G. BISHT, J.

DATE : 27th SEPTEMBER, 2021

PER COURT :-

1. This is an application under section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No.0379/2021, registered with Nanalpeth Police Station, Taluka and District Parbhani for the offences punishable under Sections 307, 353, 332, 269, 270, 188, 504, 506 of the Indian Penal Code, 1860, u/s.51(b) of Disaster Management Act and u/s.3 of Epidemic Disease Act.

2. It is the case of prosecution that on 23.07.2021 informant, a police constable was on duty. At about 4.00 p.m. he was ordered to see that the shops are closed in the area of Grand Corner, Parbhani. While patrolling, he found one shop

by name and style as “Famous Multibrand Showroom” opened and, therefore, he asked the person to close the shop, but he refused to do so. When that person was asked to accompany police station, he started creating ruckus. It is alleged that he tried to give a blow of stick on the head of informant, which was warded off by the informant. The informant later on lodged the report.

3. Mr. S. S. Tambe, learned counsel for the applicant, submits that considering the allegations made in the complaint, it cannot be said that the *prima-facie* ingredients of Section 307 IPC are attracted. Having regard to the facts and circumstances of the case there is no necessity of custodial interrogation and in such circumstances the application deserves to be allowed.

4. Mr. V. S. Badakh, learned APP for the Respondent - State, on the other hand, opposed the submissions by contending that the applicant tried to assault on the head of informant by means of stick and thus attempted to kill him. Investigation is in progress. There being no merit in the application, the same is liable to be rejected.

5. A plain reading of the First Information Report would show that while the informant and others were performing

their duties and the informant asked the applicant to close the shop, not only he started quarreling but tried to give a blow of stick on the head of informant. A bare reading of F.I.R., in my considered opinion, would not *prima-facie* attract the ingredients of Section 307 of IPC. I have my own doubts about the application of Section 307 IPC. It is also not the case of the prosecution that the informant was seriously injured in that attempt. There is nothing to be recovered.

6. Having regard to the facts and circumstances of the case, in my considered opinion, the application deserves consideration. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicant Shaikh Abdul Mujahed s/o Shaikh Abdul Rahim herein in connection with Crime No.0379/2021, registered with Nanalpeth Police Station, Taluka and District Parbhani for the offences punishable under Sections 307, 353, 332, 269, 270, 188, 504, 506 of the Indian Penal Code, 1860, u/s.51(b) of Disaster Management Act and u/s.3 of Epidemic Disease Act, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand only), with one or two sureties in the like amount.
- (iv) Application is accordingly disposed of.

**(V. G. BISHT)
JUDGE**