

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1120 OF 2021

Ajay Ishwar Koli ...Applicant

Versus

The State of Maharashtra ...Respondent

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Advocate for the Applicant : Mr. Shaikh Mazhar A. Jahagirdar
h/f. Mr. S. D. Tawshikar,
Mr. V. S. Kakade

APP for the Respondent – State : Mr. N. T. Bhagat

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CORAM : PRAKASH D. NAIK, J.

DATE : 13th OCTOBER, 2021

PER COURT :-

1. The applicant is apprehending arrest in Crime No. 311/2021 registered with Pahur Police Station, District Jalgaon for the offences punishable under Sections 307, 353, 332, 143, 147, 148, 149, 323, 337, 341, 427 read with 34 of the Indian Penal Code and Section 3 of Prevention of Damages of Public Property Act, 1984 and Section 37(1)(c) of Bombay Police Act.

2. The case of the prosecution is that on 31.08.2021 the police party was on bandobast duty at village Shendurni on account of Dahihandi celebration. While patrolling the police

found that the people belonging to different religion were assaulting and pelting stones against each other. The complainant was wearing helmet and on account of pelting stones, the helmet was broken and he sustained injury. Most of the accused were not known to the informant. The CC TV camera is installed on the shop premises as well as residence of some of the persons were viewed by the police and they could identify the persons involved in the offence. The applicant is one of the person present at the scene of offence.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. The CC TV footage does not show that the applicant had participated in the crime. It only shows the presence at the shop of his brother. He is not involved in pelting stone in the incident. The brother of the applicant was attributed similar role. He has been granted anticipatory bail by the Sessions Court. There are no criminal antecedents against the applicant. Section 307 of IPC cannot be applied in this case.

4. Learned APP submitted that the applicant's presence was established in the CC TV footage. The statements of the witnesses who were present at the scene of offence were also

recorded. The witnesses have stated that the applicant has actively participated in the offence. He was amongst the persons, who were pelting stones, bottle, etc. Some of the persons have sustained injuries.

5. On perusal of the FIR, it can be seen that several persons were involved in pelting stones against each other. At the time of Dahihadi celebration police were on patrolling duty. Prima-facie applicability of Section 307 IPC is debatable. It is difficult to state that there was an intention to kill any person. According to applicant, CC TV footage shows the presence of the accused, it does not attribute any role to him. The statement of witnesses pointed out by learned APP mention that the applicant and others were pelting stones or bottle. The allegations are vague. It is pertinent to note that several persons were allegedly involved in the incident. There are no criminal antecedents against the applicant.

6. Considering the aforesaid circumstances, the application can be allowed.

ORDER

(i) Anticipatory Bail Application No. 1120 of 2021 is allowed.

(ii) In the event of arrest of the applicant in Crime No. 311/2021 registered with Pahur Police Station, Taluka Jamner, District Jalgaon, the applicant be released on bail on executing PR bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one or more sureties in the like amount.

(iii) The applicant shall appear before the Investigating Officer on 20.10.2021, 21.10.2021 and 22.10.2021 between 11.00 a.m. to 01.00 p.m. and thereafter as and when called for till filing of the charge-sheet.

(iv) Application stands disposed of.

(PRAKASH D. NAIK)
JUDGE

shp/-