

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1480 OF 2021

Keshav Bhimrao Vharkate.

Applicant

Versus

The State of Maharashtra.

Respondent

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Mr. R.R. Karpe, Advocates for the applicant.
Mr. A.V. Deshmukh, A.P.P. for respondent – State.

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CORAM : **PRAKASH D. NAIK, J.**

DATE : 22-12-2021.

ORDER :

1. This is an application for anticipatory bail. Crime No.708/2021 is registered with Karjat Police Station, District Ahmednagar for the offences punishable under Sections 379, 353, 332, 186, 504, 506 read with Section 34 of the Indian Penal Code (for short "I.P.C.") and under Section 3 read with 15 of the Protection of the Environment Act.

2. First Information Report (for short "F.I.R.") was lodged by Talathi on 19.11.2021. It is alleged that on 19.11.2021 the complainant and others were instructed that sand is being illegally transported within the area of Karjat City and action is required to be initiated against offenders. The complainant and others proceeded

to the place intimated to them for initiating action. They were informed by Prant Officer that truck was intercepted by him while transporting the sand. S.D.P.O. Dr. Ajit Thorbole intercepted the truck. The driver was sitting in the truck. One person was standing near the truck. He stated that he is from police department. He tenders apology and he needs help. His truck may be released. S.D.P.O. started video recording the incident. He agreed for taking the truck to the office of Talathi. The person, who was standing near the truck, instigated the truck driver to run away with the truck. The driver of the truck left the place. Applicant was the person who was standing near the truck. It was revealed that he is from the police department. It was also noticed that the sand was offloaded from the truck before leaving the place of incident.

3. The S.D.P.O. Dr. Thorbole had forwarded the complaint dated 22.11.2021 stating that F.I.R. be registered on his complaint. It was stated that on 19.11.2021 he noticed truck with sand. He enquired with person standing near truck. He stated that he do not have permit and he is police personnel. He video recorded version of that person. He agreed to bring truck to Prant Office. He caught his collar and assaulted him. He managed to run away. Thereafter his statement was recorded on 23.11.2021 wherein he has narrated the incident of assault. In pursuant to that Section 353 of I.P.C. was added. Dr. Thorbole was medically examined. He gave history of

assault. Abrasion on backside of left ear was noted.

4. Learned Advocate for applicant submitted that applicant is working in police department. Invocation of Section 353 of I.P.C. is afterthought.

5. From the factual aspects as stated above, it is clear that Section 353 of I.P.C. was invoked subsequently. The incident of assault is not reflected in the F.I.R. According to the complainant, he was narrated the incident by Prant Officer. It is pertinent to note that according to prosecution, the incident had occurred in presence of Dr. Ajit Thorbole, who was allegedly assaulted by the accused. However, he did not lodge F.I.R. and his statement was recorded subsequently. Although the first informant was narrated the incident, there is no reference to the incident of assault as stated by Dr. Ajit Thorbole. The panchnama with regard to transcript of video was recorded. It refers to conversation. The incident of assault by applicant is not recorded. Dr. Thorbole forwarded letter on 23.11.2021.

6. Learned A.P.P. submitted that specific role has been attributed to the applicant. His custodial interrogation is necessary. However, the version of Dr. Ajit Thorbole, who was allegedly assaulted, was reflected for the first time in his statement dated

23.11.2021. It is not clear as to why the F.I.R. at his instance was not recorded and his statement was recorded subsequently.

7. In view of the above, the applicant can be granted pre-arrest bail. Hence, the order

ORDER

- (i) ABA No. 1480 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in Crime No. 708 of 2021 registered with Karjat Police Station, District Ahmednagar, the applicant be released on bail on executing P.R. Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall report the Investigating Officer on 28.12.2021 and 29.12.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of the charge-sheet.
- (iv) Application for anticipatory bail stands disposed of.

(PRAKASH D. NAIK, J.)

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