

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2797 OF 2021

Chandrakant Kallappa Gangonda ...Applicant

Versus

The State of Maharashtra ...Respondent

.....
Mr.Veerdhawal Deshmukh i/b. Mr. Ritesh Thobde for the
Applicant.
Mr. Ameet Palkar, APP for the Respondent-State.
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CORAM: V.G.BISHT, J.

DATE: 29TH NOVEMBER, 2021

PC:-

1. The present application has been moved by the applicant under Section 438 of the Code of Criminal Procedure apprehending arrest under Sections 326, 329, 143, 147, 148, 149 and 187 of the Indian Penal Code (the IPC) and Section 37 (3) of the Maharashtra Police Act registered vide C.R. No. 136 of 2021 with Akkalkot South Police Station, Solapur Rural.

2. It is the case of prosecution that on 31st March, 2021 at about 8.30 pm, accused Chandrakant Kallappa Gangonda (applicant) and his brother Siddhram Kallappa Gangonda asked informant as to why his father had given an application to the Tehsildar in respect of soliciting the right of way from their field and then allegedly assaulted by means of iron rod on his hand and back. Similarly, accused Kallappa Basappa Gangonda, Nagappa Sharanappa Gangonda, Shivningappa Sharanappa Gangonda and Sharanappa Shivlingappa Gangonda also assaulted informant's father and brother by means of fists and kick blows. It is further alleged that the accused Kallappa Basappa Gangonda even snatched a gold chain from the neck of informant. Accordingly, informant lodged the report.

3. Mr. Deshmukh, learned Counsel for the applicant, submits that arising out of the same incident, the applicant has also lodged an FIR against the informant vide C.R. No. 135 of 2021 registered with Akkalkot South Police Station for

the offences punishable under Sections 307, 504, 506, 142, 147, 148, 149 and 188 of the IPC and under Section 37 (3) of the Maharashtra Police Act. By way of counterblast, according to learned Counsel, the applicant has been falsely implicated. Other accused are already released on bail. No criminal antecedents are forthcoming and hence, the present application deserves to be allowed.

4. Mr. Palkar, on the other hand, submits that the investigation is in progress. Informant sustained grievous injury as a result of assault at the hands of applicant and therefore, there being no merit in the application, same is liable to be rejected.

5. Perused FIR and the counter FIR. It appears that there is some dispute between the parties in respect of right of way which passes through the field of accused. Arising out of the same incident, both the parties have filed FIR and cross FIR against each other. It is alleged in the present FIR that the

applicant had assaulted informant by means of iron rod on his hands and back and to substantiate that the medical certificate is produced on record today itself.

6. The medico legal certificate dated 9th April 2021 shows that there was CLW over vertex region scalp incised wound about 6 cm peri-osteum deep with ½ cm breach in the peri-ostem at vertex region and the nature of injury was grievous. This clearly goes to show that the injury sustained by informant was over vertex region whereas the allegation against the applicant is that he had assaulted on his hands and back.

7. Having regard to the material on record, in my considered opinion, the applicant has made out a case for anticipatory bail. Hence, the following order is passed :

ORDER

- (i) The application is allowed.

(ii) In the event of arrest of the applicant in C.R.No. 136 of 2021 registered with Akkalkot South Police Station, Solapur for the offences punishable under Sections 326, 329, 143, 147, 148, 149 and 187 of the Indian Penal Code and under Section 37 (3) of the Maharashtra Police Act, the applicant be enlarged on bail on his furnishing PR & SB in the sum of Rs. 20,000/- with one or two surety/sureties in like amount.

(iii) The applicant shall make himself available for interrogation by a police officer of concerned police station as and when required.

(iv) The application stands disposed of accordingly.

(V.G.BISHT, J.)