

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1893 OF 2021

Vikrant Vinayak Bhosale @ Vicky

Applicant

versus

The State of Maharashtra

Respondent

Mr.Harshad Sathe, Adv. For applicant.

Mr.Sachin Chandan, Adv. For complainant.

Mr.S.R.Agarkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 26th August 2021

PC :

1. This is second application for anticipatory bail. Previous application was rejected by this Court vide order dated 11th June 2021.

2. Learned counsel for applicant has annexed charge sheet filed against other accused who are arrested. It is submitted that there is no evidence against applicant. It is further submitted that statements of witnesses are vague. The applicant has been falsely implicated in this case. The complainant has filed affidavit that due to misunderstanding he had named the applicant in the FIR. Hence there is change in circumstance to entertain second application for anticipatory bail.

3. Learned APP submitted that there is no change in circumstance. This application is not maintainable. Previous application was rejected by assigning reasons.

4. Learned advocate Mr.Chandan submitted that he has instructions to represent the complainant. He had tendered affidavit executed by the complainant. In the said affidavit it is stated that due to misunderstanding he has named the applicant in the FIR. He did not even know the applicant nor the applicant knows him. Subsequently he came to know that to falsely implicate the applicant, the co-accused represented to him that they have attempted to assault him at the instance of applicant. However, subsequently he came to know that the applicant had nothing to do with the incident of assault. The father and mother have not given any statement before Police making allegations against applicant. He has studied up to 9th standard in Hindi. He is not well versed with Marathi and do not understand Marathi. The affidavit was executed on 21st August 2021. Learned counsel for complainant submitted that the complainant had no grievance against applicant whereas he supports the complainant against co-accused who were involved in the offence.

5. It is pertinent to note that statement of the complainant was recorded on 20th Jun 2020 and on that basis the FIR was registered on the same day. For the first time by executing this affidavit, the complainant has averred that the FIR was registered out of misunderstanding and that the applicant has been falsely implicated. The complainant has also denied the contents of the statements of mother and father. The affidavit is contrary to the investigation papers. Although the FIR is registered on 20th June 2020, the applicant has been avoiding arrest. Previous application was rejected on 11th Jun 2021.

6. The affidavit tendered by the complainant and the averments therein cannot be considered for granting anticipatory bail to the applicant. There is no ground to entertain this application. It is apparent that the complainant has changed his mind and has now asserted that the FIR has been registered due to misunderstanding. Hence, no case for granting this application is made out. Accordingly Anticipatory Bail Application is rejected.

(PRAKASH D. NAIK, J.)

MST