

Digitally
signed by
RUPALI
RAJESH
WAKODIKAR
Date:
2021.10.07
19:03:13
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3282 OF 2021

Bhausahab Raosaheb Magar ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Rajesh Jadhav for the Applicant.

Ms. P.P.Shinde, A.P.P for the Respondent-State.

Mr. K.H.Tanpure, PSI Velapur Police Station, Solapur.

CORAM : REVATI MOHITE DERE, J.
DATE : 7th OCTOBER, 2021

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 284 of 2021 registered with the Velapur Police Station, Solapur, for the alleged offences punishable under Section 353 of the Indian Penal Code; Sections 3 and 7 of the Official Secrets Act, 1923.
3. Learned Counsel for the applicant submits that the applicant has been falsely implicated in the said case, only because he had called the

Superintendent of Police, complaining that the Police were not taking cognizance of his calls. He submits that in the facts of the case, by no stretch of investigation, Sections 3 and 7 of the Official Secrets Act will apply. He submits that the said sections have been applied only with a malafide intention to see that the applicant does not get bail. He submits that merely because the applicant had shot/filmed the incident, would not justify the application of the provisions of the Official Secrets Act. He submits that, the action by the Police is not only malafide, but, smacks of high handedness and constitutes abuse of the process of law. He submits that because of the application of the provisions of the Official Secrets Act, even the learned Sessions Judge denied bail to the applicant, observing that the offence alleged, is a serious offence.

4. Yesterday, after hearing the learned Counsel for the applicant, the concerned officer, who registered the offence under Section 353 of the Indian Penal Code and Sections 3 and 7 of the Official Secrets Act i.e. ASI Vitthal Yellappa Shinde, was directed to remain present in Court, today.

5. Learned APP states that today, ASI Vitthal Yellappa Shinde could not remain present as he has been transferred to Pandharpur, however, Mr. K.H.Tanpure, the Investigating Officer of the said case, is

present in the Court. She submits that the said officer has taken over the said case, only 15 days back.

6. Perused the papers. According to the complainant - Vitthal Yallappa Shinde, he was posted as an Assistant Police Sub-Inspector at Velapur Police Station, Solapur, on 26th August, 2021, when he received an information about a quarrel, taking place, pursuant to which, he and the other Police Officers reached Village Dokewadi, in the agricultural land of Ganpat Doke at about 11.30 a.m. He has stated that after reaching the said spot, he and other officers tried to pacify both the parties, who were quarreling. According to the complainant, the accused asked them as to why they had come there and pushed him, as a result of which, he fell down. It is alleged by the complainant that the applicant shot/filmed the said incident on his mobile phone and thereafter, left the said spot. According to the prosecution, in the search, when the applicant was apprehended, they found the said shooting/filming of the incident in his mobile phone. Having perused the FIR and taking the case as it stands, no offence whatsoever is made out under Sections 3 and 7 of the Official Secrets Act. It is informed that PI D.S. Khartode was the concerned Police Inspector at the relevant time.

7. Learned Counsel for the applicant submits that as the Police were not taking cognizance, the applicant was constrained to call the Superintendent of Police, pursuant to which, the Police came at the spot. The present case smacks of police high handedness and as such, it is necessary to direct the Superintendent of Police, Tejaswini Satpute to conduct an inquiry into the same. Accordingly, the Superintendent of Police to conduct an inquiry into the case. The Superintendent of Police is at liberty to even record the statements of the witnesses including the applicant. The Superintendent of Police is at liberty to take appropriate action against the concerned officers, if it is found in the inquiry that the application of the Official Secrets Act, was deliberate and malafidely invoked. It is the duty of the police to uphold the law and not misuse and abuse the same. It is expected that the inquiry will be fair and impartial.

8. Considering the aforesaid, further custody of the applicant is not warranted. Accordingly, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be released on cash bail in the sum of Rs. 3,000/- , for a period of eight weeks;
- (ii) The applicant shall furnish PR Bond in the sum of Rs.

3,000/-, with one or two sureties in the like amount, within a period of eight weeks of his release on cash bail, before the appropriate Court;

9. Accordingly, the Superintendent of Police to conduct an inquiry into the aforesaid case and submit her report to this Court in a sealed envelope, within eight weeks from today. Learned APP to communicate the said order to the Superintendent of Police for necessary compliance.

10. The application is accordingly disposed of in the aforesaid terms.

11. To be listed after 8 weeks for reporting compliance.

12. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.