

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2360 OF 2021

Ganesh Maruti Bhagat

Applicant

versus

The State of Maharashtra

Respondent

Ms.Sushma Mishra, Advocate, for applicant.

Mr.Y.Y.Dabake, APP, for State.

PSI K.V.Bagate, Bhiwandi Taluka Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 30th September 2021

PC :

1. The applicant is seeking pre-arrest bail in CR No.293 of 2021 registered with Bhiwandi Taluka Police Station for offences under Sections 353, 332, 323, 324, 325, 504 and 34 of Indian Penal Code. Subsequently, Section 353 of IPC has been invoked.

2. The FIR was registered on 25th August 2021. The grievance of complainant is that he is Police Patil of village Aangaon, Taluka Bhiwandi. On 25th August 2021 he had visited Seva Kendra for withdrawing amount. He was accompanied by his son Vedant Patil. The co-accused Rupesh Bhagat approached the complainant. There was exchange of words between them. Ganesh Bhagat (applicant) and the co-accused Rupesh Bhagat abused the complainant and assaulted him by fist and kick blows. Rupesh Bhagat gave a kick blow on the knee of his leg and caused injury.

3. The injured has sustained injury. The injury certificate discloses undisplaced fracture. Learned APP submitted that

complainant is still undergoing treatment.

4. The contention of applicant is that cross case has been registered with the said Police Station vide CR No.294 of 2021 for offences under Sections 324, 323, 504, 34 of Indian Penal Code. The accused no.1 Rupesh Bhagat had sustained head injury i.e. CLW and other injuries. The discharge card has been annexed to this application. The cross FIR has been registered alleging that applicant and co-accused in this case were assaulted with sticks.

5. Undisputedly the applicant was not armed with any weapon. The role attributed to him is that he has assaulted complainant with fist blows. The cross case has been registered. It appears that accused no.1 in the present case has sustained several injuries. It is debatable whether Section 353 is attracted in this case. It is not the case of prosecution that the complainant was discharging his duty or there was any obstruction in discharge of duty.

6. Considering the factual aspects of the matter, custodial interrogation of applicant is not necessary.

ORDER

- (i) Anticipatory Bail Application is allowed and disposed of;
- (ii) In the event of arrest of applicant in CR No.293 of 2021 registered with Bhiwandi Taluka Police Station, the applicant be released on bail on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall appear before Investigating Officer on 7th and 8th October 2021 between 11 am and 1 pm, and thereafter as and when called for till filing of charge sheet;

(iv) It is clarified that observations made in this order are only for considering this application and the Court below shall not be influenced by the same at the time of trial.

(PRAKASH D. NAIK, J.)

MST