

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.20 OF 2022

ANIKET SHASHIKANT GAWALI

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. R.R. Karpe, Advocate for the applicant

Mr. V.M. Kagne, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 08th FEBRUARY, 2022

PRONOUNCED ON : 26th FEBRUARY, 2022

ORDER :

1 The applicant is apprehending his arrest in connection with Crime No.684/2021 dated 30.09.2021 registered with Parner Police Station, Dist. Ahmednagar, for the offence punishable under Section 307, 326, 324, 364, 143, 147, 148, 149, 506 of the Indian Penal Code, 1860 and under Section 37(1)(c), 135 of the Maharashtra Police Act, 1951.

2 Heard learned Advocate Mr. R.R. Karpe for the applicant and learned APP Mr. V.M. Kagne for the respondent.

3 It has been vehemently submitted on behalf of the applicant that

the First Information Report is the outcome of a concocted story. In fact, one Jitendra Sampat Yewle had lodged report on 18.09.2021 about missing of his niece. Accused No.1 Prathmesh Sumbe in the present First Information Report is related to the girl and he and his friends including the present applicant had the information that the informant Akrosh Thokal has knowledge, as to where the girl is. It was contended that she has eloped with one Pappu Sinare and informant is friend of Pappu. The applicant and others were just asking, as to where Pappu Sinare, as they were concerned about the minor girl. The informant has then exaggerated the story and lodged report. Nothing is required to be recovered at the instance of present applicant and though it is alleged against him that he had assaulted the informant with wooden log, it can be seen that the injuries, those have been sustained by him, are simple in nature. The ingredients of offence under Section 307 of the Indian Penal Code cannot be spelt out, as there was no intention and/or knowledge coupled with motive to commit such offence against the accused. The applicant is ready to abide by the terms of bail.

4 Per contra, the learned APP strongly opposed the application and submitted that the present applicant is absconding as on today. In all seven persons had attacked the informant, who had nothing to do with the alleged crime or incident or eloping of the girl with Pappu Sinare. Role attributed to

the applicant is specific. He had hit wooden log on the head of the informant which is vital part of the body. The said wooden log is required to be discovered. Vehicles involved in the case are not traceable. Statements of witnesses clearly attribute the same role to the present applicant.

5 The contents of the First Information Report would show that the name of the present applicant has been taken and it is stated that when about 15 persons had gone, including the applicant, they all were asking, as to where the girl and Papya Sinare are. It appears that those 15 persons were under the impression that the informant has the knowledge about the whereabouts of the girl and the boy and, therefore, it is stated that they started assaulting the informant and present applicant had taken wooden log, which was lying thereby and he had given a blow of the same on the head of informant. Informant says that he shouted a loud and thereafter he felt giddiness. Thereafter role is attributed to other accused persons. If we consider the medical papers, of course, it appears that all the papers are not collected. The Referral Card from Rural Hospital, Parner has been collected, which shows that the history that was given is physical assault with head injury. He was advised to take X-Ray and CT scan etc. It appears that thereafter informant has got himself tested with private laboratory and the certificate in respect of CT scan appears to be given by Sai Sawli

Multispeciality Hospital (Precision Diagnostic Center). The impression that has been stated is ultrafast C.T. Brain reveals no significant abnormality. Why the final certificate has not been collected by the Investigating Officer is not known. Therefore, whatever is before this Court shows that the position of the injury alleged to have been caused by the present applicant appears to be normal. Therefore, his custody may not be required.

6 Prima facie impression about the First Information Report can also be considered. According to the informant, he was working at his hotel around 6.30 p.m. and he was asked by accused Nos.1 and 2, as to where Papya Sinare is. He told that he has no idea but then accused No.1 had given phone call and then other two motorcycles came, on which in all four persons came. Applicant's name is not appearing in that and at that time it was told by those persons that the applicant should accompany them to Parner and they will not do any harm to him. He was then made to sit on the motorcycle and was taken to a poultry farm, owned by accused No.4 Sunil Auti. This cannot be said to be the complete account of the happening between 6.30 to 8.00 p.m. But then he further says that after 8.00 p.m. he was assaulted by 15 persons and by the present applicant with that wooden log. Accused Shubham had then caused injury on his right cheek by blade. Accused Nos.3 and 4 had then caught hold of his neck and put his face under water in a

bucket for a considerable time and thereafter when he started to rescue, his face was taken out and then he was assaulted with pipe and wooden sticks by others. He then states that the said act was going on till 12.00 noon. At 12.00 noon they could hear the siren of police and, therefore, he was made to sit in a red colour Swift car, of which even the number is given and it was told to him that they are required to go to Kalyan and if the girl is not found there, he would be killed in Malshej Ghat section and would be thrown there. He then states that behind the Swift car there is another car and he was taken to Otur Toll Plaza and then from Junnar to Shirur, all the while, he was beaten by those persons. They could find that the police vehicle was coming behind and then at about 6.00 a.m. the informant left near Bharat Petrol Pump on Masne Fata, Tq. Parner. Interesting point to be noted is that the police papers contain statements of certain witnesses, who have only seen that the informant is assaulted. They have not seen any of the cars, but then there is statement of one Abasaheb Kale, who appears to be the father-in-law of the informant, but he had seen only that 4-5 unknown persons had taken his son-in-law to Parner and thereafter he was asked to go home. Whatever he had stated about the further things appears to be hearsay. Therefore, with this kind of evidence, collected at this stage, the application deserves to be allowed with conditions. Hence, following order.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicant vide order dated 03.02.2022, is hereby confirmed and made absolute. In other words, if the applicant is not formally arrested, in the event of arrest of the applicant viz. **Aniket Shashikant Gawali** in connection with Crime No.684/2021 dated 30.09.2021 registered with Parner Police Station, Dist. Ahmednagar, for the offence punishable under Section 307, 326, 324, 364, 143, 147, 148, 149, 506 of the Indian Penal Code, 1860 and under Section 37(1)(c), 135 of the Maharashtra Police Act, 1951, he be released on P.R. of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each.

3 Applicant shall not indulge in any criminal activity nor shall tamper with the prosecution evidence, in any manner.

4 He should cooperate with the investigation and shall attend the Police Station, Parner on every Monday and Thursday, between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

(**Smt. Vibha Kankanwadi, J.)**