

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

ANTICIPATORY BAIL APPLICATION NO.65 OF 2022

Preetam S/o Shivasharanappa Pujari

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.Balraj P. Pande Advocate for Applicant.
Mr.V.M. Kagne, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 2nd FEBRUARY, 2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.769 of 2021 registered with CIDCO Police Station, Aurangabad, District-Aurangabad for the offence punishable under Section 307 of the Indian Penal Code.

2. It has been vehemently submitted on behalf of the applicant that the applicant is a M.B.B.S. student and he normally resides at Kalaburgi in the State of Karnataka. The

father of the applicant is respected Doctor. Applicant is suffering from mental disorder of Acute Schizophrenic reaction. He is undergoing treatment for that purpose. He has no connection with the motorcycle bearing No.KA-32-EM-9927. Particulars from R.T.O. would show that it belongs to one Mr. Nagraj Gundappa. The police machinery claims that the said motorcycle belongs to the applicant. The First Information Report has been lodged by wife of the injured. Informant - Neha Abdul Rafe has stated that her husband is serving with Cancer Hospital, Aurangabad. As usual, he had gone to his duty at about 9.30 a.m. on 7th December 2021 and returned at around 4.30 p.m. An unknown person rung the bell of the house of the informant at around 4.45 p.m. The door was opened by the driver of the informant and that unknown person told that he has stomach ache and therefore the Doctor (husband of the informant) be called. Though he was told that Doctor was taking rest, yet he was insisting that the Doctor should be called. Around 5.30 p.m. husband of the informant went outside to know what the patient was saying. There was some talk between that unknown person and her husband and suddenly the unknown person took out knife and stabbed it into the stomach of the husband of the informant i.e. Dr. Abdul Rafe Abdul Kadir. After the injured fell

down and cried for help, informant came outside, saw the husband in injured condition. They had tried to caught hold of the said unknown person but he managed to flee away. But he left the motorcycle bearing No.KA-32-EM-9927 at that place. Injured was then shifted to the hospital.

3. Learned Advocate for the applicant submits that there is delay in lodging the First Information Report and it has not been properly explained. The applicant has been falsely implicated. Nothing is required to be recovered from the applicant. This Court has granted interim protection to the applicant and he would co-operate with the investigation and abide by the terms of the bail.

4. Per contra, the learned APP strongly opposed the application and submitted that the investigation that has been carried up till now would show that entire incident has been captured in the CCTV installed outside the house of the informant. After the incident was over, the applicant had gone to the place of his maternal uncle Suresh Kokane and had narrated the entire incident to him. Statement of Suresh Kokane has been recorded. On the say of the father of the applicant, his another

maternal uncle Nagraj Gundappa Sargadi had purchased the said motorcycle with the help of financial institution and it was the applicant who was using the said vehicle. The applicant had all the way came from Karnataka and has tried to kill Dr. Abdul Rafe. Statement of injured would also show that the injured was not knowing to the present applicant. However, the history that has been given is that injured was at Meeraj for doing his M.S. At that time he developed love affair with one staff nurse but she got married to another person in 2009. Even after her marriage, the injured was in contact with the said lady and therefore the husband of said lady had lodged the report against the injured with Gandhi Chowk Police Station, Latur. But then the injured has categorically stated that he maintained his love relations from 2008 to 2013 but thereafter he got married to the informant in 2017. The applicant is related to that lady. The statement of Suresh Kokane is also sufficient to explain the relationship between the applicant and him. Another maternal uncle of the applicant has given statement as to how he had purchased the said motorcycle and the applicant was using it. It is also stated that the applicant is a short tempered. He has identified the applicant from the CCTV footage which was collected from the house of the informant. The injury certificate

of the injured would show that he had stab injury / penetrating injury on mid-line above umbilicus which was 4 cm. X 3 cm. peritoneum deep. It was fresh and nature has been given as grievous. Probable weapon would be knife. Therefore, taking into consideration all these aspects, the physical custody of the applicant is required for the purpose of investigation.

5. At the outset, it is to be noted that the applicant has produced his identity card from Mahadevappa Rampure Medical College, Kalaburgi to show that he is doing M.B.B.S. Course in the said College. That identity card was for the year 2018-2019. Thereafter he has also produced on record treatment certificate / medical report issued by Dr. Ghanate Nagnath G. from Kalaburgi, which states that the applicant is suffering from Acute Schizophrenic reaction – comprising symptoms – being suspicious – Hearing varies – sudden anger etc. It is to be noted that this certificate has been issued on 16th December 2021 and it is stated that applicant was taking treatment from the said Doctor since last seven months but in between the relatives had taken to him faith healer thinking of Black-magic (*Bhanamati*). However, again the applicant was consulted with his parents to the said Doctor on 1st December 2021, but again he has left the

medicine. Except this certificate, there is nothing which has been produced on record regarding the entire treatment papers by the applicant. As regards the illness of schizophrenia is concerned, it is for the applicant to prove that he had committed any act during the attack of the schizophrenia, which cannot be gone into by this Court, at this stage. Any way, the certificate is after the registration of the offence.

6. The contents of the First Information Report are already narrated and therefore the same are not reproduced here. It is stated in the First Information Report that that the informant came to the place after her husband shouted. That means, she has not actually seen the attack. There is statement of the injured, but he was also not knowing to the applicant. But the Police papers show that CCTV footage has been collected and from the said footage, applicant appears to have been identified by his own relatives. The story has been given to connect the applicant, motive and the injured. Further investigation definitely requires to be conducted in this case because the motive though can be gathered from the other acts / statements of the witnesses, it is hidden in the heart of the accused. The weapon with which the injury was caused, is yet to be recovered. Though

this Court had granted interim protection, that does not mean that after the entire evidence is considered the applicant should still be released on anticipatory bail. There appears to be also extra judicial confession by the applicant to his maternal uncle. Therefore, when this kind of *prima facie* involvement of the applicant is coming forth, he does not deserve extraordinary relief from this Court.

7. For the reasons stated above, the Application stands rejected. The interim relief granted earlier, stands vacated.

[SMT. VIBHA KANKANWADI , J.]