

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 ANTICIPATORY BAIL APPLICATION NO.68 OF 2022

VIJAY SHANTARAM DESALE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. S.N. Suryawanshi, Advocate for the applicant

Mr. A.M. Phule, APP for respondent Nos.1 to 3

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 10th FEBRUARY, 2022

PER COURT :

1 Applicant is apprehending his arrest in connection with Crime No.779/2021 dated 10.12.2021 registered with Dhule Taluka Police Station, Dist. Dhule, for the offence punishable under Section 354-B, 323, 504, 506, 427, 109 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. S.N. Suryawanshi for the applicant and learned APP Mr. A.M. Phule for the respondent Nos.1 to 3.

3 It has been vehemently submitted on behalf of the applicant that the First Information Report is the outcome of the enmity and the property

dispute between the two families. Though some altercation had taken place, the informant has exaggerated. The applicant had not disrobed the informant. In fact, at the time when the first anticipatory bail application was rejected by the learned Additional Sessions Judge, the applicant side could not produce the video clip, however, it was available when he filed application for anticipatory bail on the second occasion. It was not allowed by the learned Additional Sessions Judge and the pen-drive, in which the video clip which was videographed by one of the accused on his old phone, was directed to be given back to the applicant. The custodial interrogation of the applicant is not required, taking into consideration the allegations. He has also taken this Court through the non cognizable complaint, that was lodged by the applicant's brother, which came to be registered under Section 323, 504, 506 read with Section 34 of the Indian Penal Code against the informant and her husband.

4 Learned APP strongly opposed the application and submitted that the manner in which the offence has been committed requires condemnation. The informant is the sister-in-law of the applicant, still he had the courage to disrobe her in public. No doubt, there appears to be property dispute. The applicant's act cannot be justified on any count. The earlier bail applications have been rejected by the learned Additional Sessions

Judge. Now, during the course of the investigation the contentions in the First Information Report have been supported by the witnesses including the independent witness from Galli, in which the applicant and the informant are residing. Though nothing is required to be recovered from the applicant, the seriousness of the offence and the manner in which it has been committed is required to be considered and, therefore, no sympathy can be shown to the applicant.

5 Perusal of the First Information Report would show that the informant resides with her husband and children. They have some dispute with the applicant and his family members in respect of agricultural land. She states that incident had taken place at about 8.00 a.m. on 10.12.2021, at that time, she was alone, when the applicant and his family members by going in front of his house started abusing her. She had then called her husband and when her husband was talking with the accused persons, the accused persons started assaulting informant and her husband. The informant says that she was videographing the assault to her husband in her cell phone and at that time, applicant and his brother trying to snatch her mobile phone from her hand and tried to disrobe her with an ill intention. They were also instigated by the co-accused. The non cognizable complaint has been filed subsequently i.e. at 18.51 hours on 10.12.2021, whereas the

present First Information Report has been lodged at 17.28 hours on the same day. Therefore, we may not go to the non cognizable complaint. Only fact is required to be noted that there was some incident.

6 As regards the custodial interrogation of the applicant is concerned, taking into consideration the allegations, it appears that it is not required. Nothing is required to be seized from him and criminal antecedents have not been pointed out. Definitely, everybody should respect the relations and when it comes to disputes, endeavour should be to resolve them amicably. The act for disrobing the lady is definitely condemnable. However, that does not require custodial interrogation, by giving the custody of the applicant to the police. Investigation can go on by making the applicant available for the investigation. Therefore, with conditions the application deserves to be allowed. Hence, following order.

ORDER

1 Application stands allowed.

2 In the event of arrest of the applicant viz. **Vijay Shantaram Desale**, in connection with Crime No.779/2021 dated 10.12.2021 registered with Dhule Taluka Police Station, Dist. Dhule, for the offence punishable under Section 354-B, 323, 504, 506, 427, 109 read with Section 34 of the

Indian Penal Code, 1860, he be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

3 The applicant shall not indulge in any criminal activity nor he should tamper with the prosecution evidence, in any manner.

4 He shall not contact the informant and witnesses and shall maintain good relations.

5 He should cooperate with the investigation and shall remain present before the Investigating Officer on every Monday and Thursday between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

(Smt. Vibha Kankanwadi, J.)

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