

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.270 OF 2022

DATTA S/O MUNNA RATHOD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

.....

Advocate for Applicants : Mr. A. V. Lavte
APP for Respondent-State : Ms. Vaishali Patil Jadhav

.....

CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving the Order :
16-03-2022**

**Date of Pronouncing the Order :
12-04-2022**

ORDER :

1. The applicants are apprehending their arrest in connection with Crime No.09 of 2022, dated 13-01-2022, registered with Police Station, Wadwani, District Beed, for the offence punishable under Section 353, 225, 504, 506 r.w.34 of IPC.
2. Heard learned Advocate Mr. A. V. Lavte for applicants and learned APP Ms. Vaishali Patil Jadhav for respondent-State.
3. It has been vehemently submitted on behalf of the applicants after giving the contents of the FIR that there is delay of one day in lodging the report which has not been explained at all. Therefore,

there is room to infer that the story is concocted. The informant is the police officer, still he has not lodged the FIR immediately. The alleged incidence of assault and abuse to the police person has not taken place. Co-accused Anil is serving as a security guard in Security Guards Board for Brihanmumbai and Thane District. When the informant and another police constable by name Aghav had come, they were in civil dress and they had gone to the hotel of the applicants. Co-accused Anil had asked the informant to show his identity card before taking his father in custody, and therefore, the informant got annoyed and started assaulting applicant No.1 and tried to take him in custody. In the fear that there would be FIR against them; the police personnel appears to have concocted a story. The physical custody of the applicants is not required for the purpose of investigation and they are ready to abide by the terms of the bail.

4. Per contra, the learned APP strongly opposed the application and submitted that already non-bailable warrant has been issued against accused Datta Munna Rathod in SCC No.13 of 2016 by learned Judicial Magistrate First Class, Wadwani. Anyway the accused was to be arrested in that case, and therefore, the

informant and another police person went there. When warrant was shown to Datta Munna Rathod, he started shouting and abusing and tried to flee away from the spot, but he was caught hold by Police Naik Aghav. His sons and wife came there. The house of the accused is just near to the hotel. All of them started abusing the police. Datta's son Anil rushed towards Aghav and accused Datta twisted his left hand and Datta managed to flee away. Another son Sunil rushed towards informant Ansiram Kaple and caught hold of his collar and abused them. Both these accused persons i.e. Data and Sunil are absconding since that date. They have no respect for the law and they have behaved in such a manner against the police persons. The injury certificate of Aghav would show that he had blunt trauma with swelling at the base of left hand thumb. It is stated to be simple in nature. Statements of witnesses have been recorded which are mostly the police party. The acts of the applicants are such that discretionary relief should not be granted to them.

5. Perusal of the FIR and the document supporting the same would show that Judicial Magistrate First Class, Wadwani had issued non-bailable warrant against applicant No.1 in SCC No.13 of 2016.

It is to be noted that it is the case under N.I.Act, and though it appears to have been filed in 2016 it is still pending. Naturally it might be due to the absence of applicant No.1 only. Further, when the non-bailable warrant was issued against him, which was to be made returnable on 25-01-2022, the presence of the police persons cannot be doubted. The police party had gone to discharge their duty. At this stage we cannot doubt the intention. The applicants are contending that co-accused Anil had asked for the identity card. That defence will have to be proved by the accused persons, but the statements of witnesses and the FIR would show that the police persons had shown the warrant issued by the Court against Datta Munna Rathod, that would have been sufficient and would not have required the police persons to show their identity card. The injury certificate supports the contents of the FIR at this stage. Specific role is attributed to both the applicants, and therefore, this is not a fit case where the extraordinary discretionary relief should be granted in favour of the applicants. Hence, application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.