

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.297 OF 2022

NAVNATH S/O ALLI FULMALI
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. S. E. Shekade, Advocate for applicant.
Mr. A. M. Phule, APP for the respondent – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 28.03.2022

Pronounced on : 13.04.2022

ORDER :-

. The applicant is apprehending his arrest in connection with Crime No.353 of 2021 registered with Ashti Police Station, Dist. Beed for the offences punishable under Sections 307, 143, 147, 149, 323, 324, 325, 326, 452, 504, 506 of Indian Penal Code.

2. Heard learned Advocate Mr. S. E. Shekade for the applicant and learned APP Mr. A. M. Phule for the respondent – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. Perusal of the FIR would show that one Yalappa Rama Fulmali has lodged the report on 27.12.2021 in respect of the incident dated

22.12.2021 and 23.12.2021. As regards incident dated 22.12.2021 is concerned, he states that it had occurred around 11.00 a.m. and the role attributed to the applicant is that informant's son was assaulted by fists and kicks. The incident is stated to have started due to the waste water/ sewage from the cattle shed of Alli Fulmali i.e. the father of applicant. As regards the incident dated 23.12.2021 is concerned, he states that, said incident has taken place at about 2.30 p.m. and at that time, the present applicant as well as other accused persons were armed with sticks and iron rod. Present applicant had assaulted the informant with iron rod and he had intention to hit head of the informant, but as he resisted it by his left hand, injury has been caused near the left thumb and there is fracture to his left hand at the said site.

4. Perusal of the injury certificate of the applicant would show that he has received three injuries. One is incised wound over left hand extending from base of left thumb over palm between left thumb and left index finger further extends towards dorsal surface of hand at base of left thumb. It is stated to be grievous as it turned out to be fracture at proximal phalanx of first finger and first finger metacarpal bone. The second is contusion, which is stated to be simple on mid parietal region. Third is also abrasion and it is also on mid parietal region and it is also simple in nature. Statements of witnesses appear to have been taken.

Though they are saying that there was such quarrel, it is to be noted that some of them are not giving complete account and witness Shivaji Chinnu Fulmali and Shinappa Yallappa Fulmali both have stated that the applicant had directly hit on the hand of the informant. Therefore, there is no support to the statement of the informant that applicant intended to hit the head of the informant. Sections 307 and 352 of Indian Penal Code have been later on added. It is stated that the iron rod used by the present applicant is yet to be recovered. That cannot be the only ground on which his application should be rejected. We are also required to consider the statements of witnesses, who have not stated that the assault was aimed at the head of informant. Under such circumstance, by imposing strict conditions, the application can be allowed. Hence, the following order :-

ORDER

- I) Application is hereby allowed.
- II) In the event of arrest of applicant – Navnath s/o Alli Fulmali in connection with Crime No.353 of 2021 registered at Ashti Police Station, Dist. Beed for the offences punishable under Sections 307, 143, 147, 149, 323, 324, 325, 326, 452, 504, 506 of Indian Penal Code, he be released on P. R. Bond of Rs.30,000/- with two sureties of Rs.15,000/- each.

- III) The applicant shall remain present before the Investigating Officer on every Wednesday, Friday and Sunday between 10.00 a.m. to 2.00 p.m. till filing of charge-sheet.
- IV) He shall not tamper with the evidence of the prosecution in any manner.
- V) He shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]

scm