

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.330 OF 2022

RAMRAO MANIKRAO DESHMUKH

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. S.S. Rathi, Advocate for the applicant

Mrs. V.N. Patil-Jadhav, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 30th MARCH, 2022

PRONOUNCED ON : 19th APRIL, 2022

ORDER :

1 The applicant is apprehending his arrest in connection with Crime No.21/2022 registered with Sengaoon Police Station, Dist. Hingoli, for the offence punishable under Section 307, 326, 447, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. S.S. Rathi for the applicant and learned APP Mr. V.N. Patil-Jadhav for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 First Information Report has been lodged by one Mithun Diliprao Deshmukh on 27.01.2022 at about 20.25 hours in respect of incident that had allegedly taken place at about 6.00 to 6.30 p.m. on 26.01.2022. He states that when he was standing on the plot in front of his house, at that time, present applicant along with co-accused had come to his plot. Present applicant along with co-accused Ajay and Manoj were holding iron rod. Accused Amol was holding wooden rafter. When informant asked as to why they have come on his plot, at that time, accused Ajay told that he should give the plot in their name. Informant's father was saying that the dispute regarding plot is in Court. At that time, accused Ajay assaulted informant by the iron rod on his head. Present applicant and co-accused Manoj also assaulted by iron rod on the forehead, back and shoulder of the informant, causing him injury. Co-accused Amol and Laxman had also assaulted him. Informant's father was also assaulted by the accused persons.

4 It will not be out of place to mention her that accused Laxman, Marotrao and Pramod were granted anticipatory bail by the learned Additional Sessions Judge, Hingoli on 03.03.2022, however, application of the present applicant was rejected. Co-accused Ajay has been granted regular bail.

5 Investigation in the matter appears to be almost complete. The statements of the witnesses would show that they are in conformity with the contents of the First Information Report. That means, almost all of them are saying that the present applicant had assaulted informant by iron rod on his forehead, back and shoulder. The provisional certificate initially issued on 26.01.2022 states that there were contusions suffered by the informant and then he was referred to Civil Hospital, but he has taken treatment at Bhagwati Multispeciality Hospital, Nanded. It states that he has admitted on 27.01.2022 and discharge on 01.02.2022 and the diagnosis is head injury (CLW scalp, left forehead). The discharge card does not say what was the nature of the injury. Final report has been given by Rural Hospital, Sengaoon, Dist. Hingoli stating that in all five injuries were found; three of them were contused lacerated wounds and two were contusions, two of them were on left front parietal area, one is on left temporal area, one is over back and the last is over right thigh. However, the nature of all the injuries is stated to be simple. Under such circumstance, whether that will attract the ingredients of Section 307 of the Indian Penal Code would be a question. Because it depends upon the intention which is now required to be proved by the prosecution at the time of trial. Certainly the injury certificate is not attracting the ingredients of Section 326 of the Indian Penal Code. Therefore, taking into consideration this aspect the custodial interrogation of

the applicant is not required and he deserves bail under Section 438 of the Code of Criminal Procedure. Hence, the following order.

ORDER

1 Application stands allowed.

2 In the event of arrest of the applicant viz. **Ramrao Manikrao Deshmukh**, in connection with Crime No.21/2022 registered with Sengaoon Police Station, Dist. Hingoli, for the offence punishable under Section 307, 326, 447, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code, he be released on P.R. Bond 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 should cooperate with the investigation and shall remain present before the Investigating Officer, on every Sunday, between 10.00 a.m. to 12.00 noon, till filing of charge sheet.

(Smt. Vibha Kankanwadi, J.)