

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.346 OF 2022

SK. NIHAL JAMEEL AHMED AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...
WITH
CRIMINAL APPLICATION NO.1176 OF 2022
IN ABA/346/2022

...
Advocate for Applicants : Mr. Nilesh S. Ghanekar
APP for Respondent - State : Mr. V. M. Kagne
Advocate for informant : Mr. C. C. Deshpande h/f.
Mr. A. K. Bhosle
...

CORAM : S. G. MEHARE, J.

DATE : 14-06-2022

PER COURT :-

Heard the learned counsel for the applicants and the learned APP for the respondent – State at length.

2. The applicants are seeking pre arrest bail in connection with Crime No. 59 of 2022 registered with Chikalthana Police Station, Aurangabad, for the offence punishable under Sections 394, 427 read with Section 34 of the Indian Penal Code.

3. The brief allegations against the applicants are that on 16.02.2022 applicant no. 1 Sk. Nihal Jameel Ahmed went to the

shop of complainant for purchasing a cake of Rs.45/-, but the applicant no.1 paid currency note of Rs.50/- at counter and told him that other shopkeepers are selling the similar cake at Rs.40/-. Thereafter, applicant no.1 slapped the complainant behind his ear. Then, the incident happened. He broke glass counter with stone. It is alleged that both the accused took Rs.7000/- to Rs.8000/- from the counter of shop.

4. It is case of the applicants that there was fighting between them. The applicant no. 1 Nihal also received a serious injury. The police has also recorded his statement in the hospital on the next date of the incident, but till date no action has been taken on the report though complaints are made to various authorities. Learned counsel for the applicants would submit that to make offence serious the false allegations of extracting money from the counter have been made. It was a simple dispute on the rate of the cake. The applicant no.1 has sustained injury and was under the medical treatment, however, police did not take any action on his report. Merely having the criminal antecedent and his discredit are no grounds to reject the bail. The applicants are of the same village. They are ready to abide by the conditions. There was no denomination of the currency note. Hence its recovery is impossible. In one of the case, applicant no. 1 has been acquitted by the Court. Therefore, he requested to allow the application.

5. Per contra, learned APP for the respondent / State would submit that a serious offence has been committed by the applicants, the antecedent shows the habit of applicant no. 1 to disturb the law and order and commit serious offence. The denomination of the currency notes is not possible because in routine, no one keep record of number of currency notes, in day to day affairs, but the fact remains that the money was extracted forcibly and the damage was caused to the property of the complainant. The antecedents of applicants may help this court to consider the conduct of the applicants. Considering the facts in all and the stage of the investigation, this is a fit case of to reject the anticipatory bail.

6. The record reveals that the incident is not disputed by the applicants. A dispute started on the price of the cake and then turned to violent. The conduct of the parties is material in such a case. If the purchaser i.e. applicant no. 1 was not agreeable on the point of price of the cake, he had option not to purchase. However, instead of doing so, he broken the glass of the counter of the shop of the complainant. The applicants turned aggressive. The denomination of currency note is highly impossible to be maintained in daily life. The fact remains that the report was immediately lodged.

7. Having regard to the facts of the case and conduct of the applicants, and the nature of the offence, this court is of the view that the applicants were so aggressive and the possibility of extracting money cannot be ruled out. Though, the applicant no.1 had been acquitted in one case, but it indicates that there are some criminal antecedents. The investigation is at the primary stage.

8. In view of the aforesaid, this Court is of view that custodial interrogation of the applicants is necessary. Hence, I do not find that the applicants are entitled for anticipatory bail. Hence, the application stands dismissed.

9. Criminal application to assist the learned APP is disposed of.

(S. G. MEHARE)
JUDGE

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