

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

9 ANTICIPATORY BAIL APPLICATION NO.357 OF 2022

ARUNSINGH RAJUSINGH PARDESHI

VERSUS

THE STATE OF MAHARASHTRA

...

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

Mr. V.M. Kagne, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 28th MARCH, 2022

PER COURT :

1 The learned Advocate for the applicant submits that the incident had allegedly taken place on 28.01.2022, however, the First Information Report has been lodged on 30.01.2022, so, there is apparent delay in lodging the First Information Report. The applicant, who is a M.Com. student, is serving with the Finance Company, who had extended loan to the informant and the loan was outstanding. The applicant, who is the Recovery Officer, had gone along with another person just to request the informant that he should deposit the outstanding amount. He has been falsely implicated. Nothing is required to be recovered from the applicant. Contents of the First

Information Report also show that 2-3 persons were present at the spot. The applicant was released on interim relief, however, his application is finally rejected and, therefore, the present application deserves to be considered sympathetically.

2 Learned APP strongly opposes the application for grant of any interim relief on the ground that the matter is coming for the first time and he is yet to receive the papers. Contents of the First Information Report shows active involvement of the present applicant.

3 At the outset, it can be seen that the contents of the First Information Report would show that the informant has accepted that he has taken loan for purchase of motorcycle from one Lok Suvidha Finance Company, Nanded. The monthly installment for the repayment of loan was Rs.3,314/-. As per the informant, he regularly pays the installment. He received phone call from his mother around 2.00 p.m. on 28.01.2022 that two persons from the Finance Company have come to house and, therefore, he should come to house. He then went to house, but those two persons had gone and thereafter he had contacted on the mobile number which appears to be that of the present applicant or the applicant was available on that phone. The applicant then called him near Honda Showroom. He

accordingly went there. Two persons were present there and then the informant says that the present applicant started abusing him and asking him, as to why he is not giving the amount. The other person, whose name was disclosed as Sunny Singh, instigated the applicant by saying that the informant should be killed and then he had assaulted the informant by chopper on the left side of his neck. That blow was resisted by the informant by his left hand palm, causing grievous injury to his palm. Thereafter co-accused Sunny Singh took out stick, which was lying on the ground, and then the informant was assaulted on his right leg. Three persons from Honda Showroom thereafter came running and the applicant and co-accused fled away. The informant has given even the motorcycle number on which the applicant had fled away. Thus, a specific role has been attributed to the present applicant that he had tried to kill the informant, by giving a blow of chopper on the left side of his neck.

4 The copy of statement of account has been made available by the learned Advocate for the applicant. It shows that amount of Rs.1,58,930/- was the debit and the credit is Rs.1,46,288/- and the balance has been shown as Rs.12,642/-. No doubt, it appears that many times the cheque, that was given by the informant, has been dishonoured on the ground that he has not kept sufficient balance in his account, however, thereafter cash has been

deposited by the informant with the bank, where the applicant is serving as a Recovery Officer. Therefore, as on 14.03.2022 the balance is only Rs.12,642/- and last payment was made on 03.03.2022 and thereafter again two cheques have been bounced. Whatever the facts may be, when the balance is only appears to be meagre, there was absolutely no occasion for the applicant to insist for the recovery in such a way. Though they are the allegations at this stage, those allegations will have to be considered. Otherwise the applicant is not giving any other reason for his implication and, therefore, no case is made to use the discretion of this Court under Section 438 of the Code of Criminal Procedure in any manner. Application stands dismissed at the threshold.

(Smt. Vibha Kankanwadi, J.)

agd