

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

11 ANTICIPATORY BAIL APPLICATION NO.360 OF 2022

GULAB KISAN PADALKAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Jayabhar D. R. & Jayabhar S. D.
APP for Respondent-State : Ms. Vaishali Patil Jadhav
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 18-04-2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.19 of 2022, registered with Vaijapur Police Station, District Aurangabad, for the offence punishable under Section 307, 326 r.w.34 of IPC.
2. Heard learned Advocate Mr. D. R. Jayabhar for applicant and learned APP Ms. Vaishali Patil Jadhav for respondent-State.
3. The learned APP strongly opposing the application on the count that though the FIR is lodged by a person who has not witnessed the incident and he had expressed suspicion on the applicant, now during the investigation the connecting link has been revealed. The vehicle on which the assailants had come has been seized, and thereafter,

four mobile numbers have been traced. Three of them are stated to be in the name of present applicant and one is in the name of one Mohan Dhainje. The CDR shows constant calling between them and though the call details are till 10-01-2022, yet that was sufficient to add Section 120-B of IPC as well as taking into consideration the Medico Legal Certificate, Section 307 of IPC has been added. Investigation is still incomplete. The weapon used in the commission of the offence is required to be seized and the motive is to be revealed.

4. If we consider the contents of the FIR which has been lodge by one Dhondiba Soma Tengale, it would show that the injured was one Tanaji Soma Tengale i.e. his brother. He has stated that after he received the information from his relative about the admission of his brother in Dongare Hospital at Vaijapur, he went there at about 12.30 p.m., and he then says that he asked Tanaji as to what had happened, then Tanaji told him the entire story. If then Tanaji was admitted and was undergoing treatment, definitely the hospital would have treated it as Medico Legal case. If we consider the Medico Legal Certificate, the date and time of examination is stated to be 09.30 p.m. The inquiry by the informant to the injured was

stated to be at 12.30 p.m. and if the injured was conscious oriented, then why the police had not recorded his statement immediately, is a question. Another fact that is to be noted that when the opportunity was available to the informant to explain as to why he is raising suspicion over the present applicant, that has not been properly explained, it is only stated that there is land dispute between the present applicant and the informant's family. It is to be noted that the present applicant as well as the informant are resident of village Mudhale, Taluka Baramati, District Pune. The injured is a shephard and was with the goats at Rotegaon Railway Station, Aghru Shivar, Taluka Vaijapur District Aurangabad. Since the injured was in the area of Vaijapur, the offence is stated to have been committed and is required to be investigated by Vaijapur Police Station. The Medico Legal Certificate of the injured of Rahane Accident Hospital, Vaijapur, shows that the injured Tanaji sustained seven injuries and all are stated to be simple. However, it appears that he was then admitted to Vighnaharta Superspeciality Hospital. He is stated to be admitted on 12-01-2022 and there is no date of discharge that is given on the discharge summary and the final diagnosis is stated to be assaulted with multiple lacerated wounds. Nature of the injury is not stated at all. As aforesaid, when the

injured could give entire story to the informant at about 12.30 a.m., on 12-01-2022, yet statement of injured Tanaji has been recorded by the Police on 20-01-2022, and it states that he was discharged on 14-01-2022 itself. In spite of that, why there is delay in taking the statement of the injured is not known. In that statement also he is not stating that the present applicant was present. He says that two unknown persons had assaulted him by Sattur. But then the informant as well as injured say that they are sure that the act has been done by the present applicant. Merely by saying that there is dispute of the present applicant with them in respect of some land, it will not be sufficient to attract the motive. Further, the CDR report cannot be taken into consideration when there is no other corroborating evidence. Statements of other witnesses, especially those who were with the injured, but at a distance, are also not sufficient to connect the crime with the present applicant. With this kind of evidence, the applicant cannot be asked to languish in jail. The applicant deserves to be granted anticipatory bail. Hence, the order.

ORDER

- 1) Application is hereby allowed.
- 2) In the event of arrest of the applicant Gulab Kisan

Padalkar, in connection with Crime No.19 of 2022, registered with Vaijapur Police Station, District Aurangabad, for the offence punishable under Section 307, 326 r.w.34 of IPC, he be released on P.R.Bond of Rs.30,000/- with two solvent sureties of Rs.15,000/- each.

3) He shall not tamper with the evidence of prosecution in any manner.

4) He shall attend the police station on every Monday and Thursday in between 10.00 a.m. to 02.00 p.m., till filing of the charge-sheet.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.