

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 ANTICIPATORY BAIL APPLICATION NO.371 OF 2022

VIKRAM TUKARAM MULE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. V.P. Savant, Advocate for the applicant

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

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 07th APRIL, 2022

PER COURT :

1 The applicant is apprehending his arrest in connection with Crime No.49/2022 dated 07.02.2022 registered with Gondi Police Station, Dist. Jalna, for the offence punishable under Section 399, 402 of the Indian Penal Code, 1860 and under Section 122 of the Maharashtra Police Act, 1951.

2 Heard learned Advocate Mr. V.P. Savant for the applicant and learned APP Mr. V.M. Kagne for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 The present applicant has been shown to be the accused No.5. The First Information Report has been lodged by Police Inspector Shitalkumar Ramnath Ballal attached to Gondi Police Station, Tq. Ambad, Dist. Jalna. He along with his staff were patrolling and at about 00.30 hours on 07.02.2022 they spotted 7-8 persons blocking the road by motorcycle. Another motorcycle was by the side of the road and they had arranged stones on the road. The informant states that when they saw the faces of the persons in the focus of the front light of the jeep, they were the accused persons, who are named. When the informant and other police got down from the jeep the accused persons realized their jeep and accused persons started pelting stones, which had hit the bonnet of the Government jeep, causing damage to the same. It is then stated that the accused persons started fleeing away. Those persons dropped the articles required for dacoity and one motorcycle was left at the spot. The muddemal consisting of iron rods, nylon rope etc. and the motor cycle was seized. It is to be noted that the informant does not say that how he was knowing the present applicant and other accused persons. He has not stated that the accused are history-sheeters and police have the record with the Police Station. The police papers contain the statements of the members of the patrolling party, who have also not stated as to how they were knowing the present applicant and other accused. There is statement of one Raju Musale, who is the villager and has stated that his

electric motor on the well was stolen. Electric motor on the well of his adjoining land owner Satish Bankar was also stolen. According to him, he as well as Satish were taking water by the motor and they found present applicant and one Pavan Rajguru concealing their presence. When this witness and Satish went near the applicant and said Pavan Rajguru and told that they have suspicion that they have stolen the electric motors belonging to them, they should return the motors otherwise they would lodge a report. Then both of them had given confession to this witness and Pavan stating that they had stolen the motor. They had promised that they would return the same. They asked that their names should not be communicated to the police. Interesting point to be noted is that what is the connection of this witness with the incident in question could not be gathered. Admittedly, this witness Raju Musale was not present when the informant along with his party were patrolling on 07.02.2022. He was not available for the identification of these persons at the spot. The story that has been told by the police officer appears to be doubtful. Therefore, the applicant deserves protection under Section 438 of the Code of Criminal Procedure. Hence, following order.

ORDER

1 Application stands allowed.

2 In the event of arrest of the applicant viz. **Vikram Tukaram Mule**, in connection with Crime No.49/2022 dated 07.02.2022 registered with Gondi Police Station, Dist. Jalna, for the offence punishable under Section 399, 402 of the Indian Penal Code, 1860 and under Section 122 of the Maharashtra Police Act, 1951, he be released on PR. 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 attend Gondi Police Station, on every Sunday, between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

(Smt. Vibha Kankanwadi, J.)

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