

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

930 ANTICIPATORY BAIL APPLICATION NO.393 OF 2022

ASHOK PANDITRAO TIDKE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. R.N. Dhorde, Senior Counsel i/b Mr. V.R. Dhorde, Advocate for the
applicant

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

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 19th APRIL, 2022

ORDER :

1 The applicant is apprehending his arrest in connection with Crime No.1/2022 dated 01.01.2022 registered with Parali Rural Police Station, Dist. Beed, for the offence punishable under Section 307, 353, 504, 506, 143, 147, 149, 279, 283, 427 of the Indian Penal Code, 1860 and under Section 3 of the Prevention of Damage to Public Property Act, 1984.

2 Heard learned Senior Counsel Mr. R.N. Dhorde instructed by learned Advocate Mr. V.R. Dhorde for the applicant and learned APP Mrs. V.N.

Patil-Jadhav for the respondent.

3 It has been vehemently submitted on behalf of the applicant that the name of the applicant is stated to have been disclosed by co-accused. The applicant has nothing to do with the alleged incident. Though the black coloured car belongs to the applicant, but he had given the said car to one Achyut Murkute as the applicant was hospitalized. There is no question of tampering with the evidence of the prosecution, as all the witnesses are only the police persons. The accused, who was arrested, is one Achyut Murkute and on the basis of his statement other accused persons have also been apprehended. He has been unnecessarily roped in the case. He is ready to abide by the terms of the bail.

4 Learned APP has strongly opposed the application and submitted that on the day of incident the team of police consisting some male as well as female personnel were patrolling at the night time of 31.12.2021, that is, to prevent any untoward incident, at the time of celebration of new year. At the time of Nakabandi they found one Tata Nexon white car bearing No.MH 44/T-4599 coming from Parali to Gangakhed. That person had not put seat belt and, therefore, he was asked to take his vehicle towards left. He avoided and started arguing by keeping his vehicle in the middle of the road.

Thereafter he took his vehicle towards left and when it was asked that he should get down and show the dicky, he was not ready to get down. He gave phone call to somebody and within 10-15 minutes another four wheeler of black colour came from Gangakhed. It had tried to run over the lady constables but they shamed themselves by moving fast. Thereafter the driver parked car in the middle of the road, from which four persons get down. They started abusing and the car driver of the Tata Nexon also joined them in the abuses. When the police tried to shoot the incident on mobile, the mobile was snatched and put down with force, causing damage to the same. Police Naik Mr. Chate was manhandled and thereafter the E-challan machine and printer was thrown on the ground. By saying that the lady police constables should be put in the car, all those persons sat in the car. The black coloured vehicle went fast by trying to run over the police staff persons. But again they rescued themselves. The black coloured vehicle went towards Parali, whereas the white coloured vehicle went towards Gangakhed, but police had managed to caught hold of one person by name Achyut Murkute. He refused to give the number of the black coloured vehicle. He had thereafter caused damage to the Government vehicle when he was asked to sit in the police van. Thereafter, again when inquiry was made with him, he told that one person from the vehicle was Wahedkhan and another is Ashok Tidke i.e. present applicant. The learned APP submitted that the words those were

used by seeing the lady constables are highly objectionable. The custodial interrogation is necessary. So also, taking into consideration the manner, in which the offence has been committed, shows that the applicant has no regards to the police and could go against them. He does not deserve to be released on anticipatory bail.

5 The contents of the First Information Report would show that name of the present applicant is appearing, however, it was disclosed by co-accused Achyut Murkute. The applicant is admitting that he is the owner of the black coloured car, however, it is his contention that he had given the car to Achyut Murkute and at the relevant time the applicant was hospitalized. He has also produced documents from Gitte Hospital, Parli disclosing about his admission in the hospital. This Court while granting interim protection to the present applicant on 31.03.2022 opined that though the plea of *alibi* cannot be considered at the time of bail, the fact is required to be considered is that applicant might be the occupant of the vehicle but then in order to attract offence under Section 307 of the Indian Penal Code he should be at the driver's seat. The allegations and the police papers do not show that the present applicant had got down from the vehicle and had anyway used the criminal force against the police persons. Merely because he is the owner of the car, he cannot be made as an accused. Further, this Court had granted

anticipatory bail to co-accused Wahedkhan Jafarkhan Pathan on 15.03.2022 and, therefore, when role attributed to the present applicant is not a vital role, he deserves to be protected. The interim protection granted to him earlier deserves to be confirmed. Accordingly, it is confirmed. Hence, following order.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicant vide order dated 31.03.2022, is hereby confirmed and made absolute. In other words, if the applicant is not formally arrested, in the event of arrest of the applicant viz. **Ashok Panditrao Tidke**, in connection with Crime No.1/2022 dated 01.01.2022 registered with Parali Rural Police Station, Dist. Beed, for the offence punishable under Section 307, 353, 504, 506, 143, 147, 149, 279, 283, 427 of the Indian Penal Code, 1860 and under Section 3 of the Prevention of Damage to Public Property Act, 1984, he be released on P.R. Bond of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five 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 shall co-operate with the investigation and shall remain present before the Investigating Officer, daily, between 10.00 a.m. to 12.00 noon, till filing of charge sheet.

(Smt. Vibha Kankanwadi, J.)

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