

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

13 ANTICIPATORY BAIL APPLICATION NO.409 OF 2022

DINESH BABULAL MALI
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Bagul D.S.
APP for Respondent-State : Mr. V. M. Kagne
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 11-04-2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.135 of 2022, registered with Dhule Taluka Police Station, District Dhule, for the offence punishable under Section 354, 324, 143, 147, 149, 323, 504, 506 of IPC.
2. Heard learned Advocate Mr. D. S. Bagul for applicant and learned APP Mr. V. M. Kagne for respondent-State.
3. It has been submitted on behalf of the applicant that the applicant had given complaint applications on 16-02-2022 and 18-02-2022 to police as the earlier complaint filed by one Namdeo Patil bearing Crime No.273 of 2012 was not further investigated, and therefore, now he has been implicated by the informant in this case.

The informant was present in the police station on 28-02-2022 as he was making inquiry in respect of the offence which was filed by his wife. Therefore, when the alleged incident had taken place, he was not present at all at the spot and this can be seen from the CCTV Footage with the police station. He had in fact asked for the CCTV Footage under Right to Information Act, however, it has not been supplied to him. As regards the merits of the case are concerned, the allegations against the applicant that he had caught hold of the hands of the informant. For this, nothing is to be recovered or discovered at the instance of the applicant, and therefore, his custodial interrogation is not required. The police persons have some grudge against the applicant and want to see that he is put behind bar in some of the case, and therefore, though the two proposals to extern him were rejected, yet this is another attempt to malign the reputation of the applicant. He, therefore, deserves to be protected.

4. The learned APP has strongly opposed the application and submitted that the act alleged against the applicant should be read in consonance with the threat given by the accused persons and also the other acts done by the co-accused. The co-accused had

assaulted the husband of the informant with sticks, and therefore, he was admitted between 02-03-2022 to 07-03-2022 at Om Hospital in Dhule. The allegations against the applicant are outraging of the modesty of the informant. In all nine previous criminal antecedents are against the present applicant, they are, Crime No.50 of 2013, Crime No.62 of 2106, Crime No.140 of 2016, Crime No.16 of 2017, Crime No.21 of 2018, Crime No.180 of 2021, Crime No.614 of 2021, Crime No.33 of 2021, Crime No.1 of 21, all registered with Dhule Taluka Police Station, District Dhule. It is also the information of the Investigating Officer that the present applicant is not doing anything to earn but he is a troublesome person and picking up quarrels with the villagers and raising problem of law and order, therefore, his custodial interrogation is necessary.

5. The learned Advocate for the applicant submits that out of those criminal antecedents, he has been acquitted in two to three cases.

6. Perusal of the papers would show that statements of witnesses have been recorded and the neighbouring persons who had come to the house after their agricultural operations around 04.30 they had heard the voice of quarrel, and therefore, had come out. They had

seen the incident and against all of them have stated that the present applicant had caught hold of the hands of the informant. As regards her husband is concerned, he had arrived at the place after some time and then it is stated that he was assault by the accused persons. The statements of the witnesses as well as the injured and the informant does not say that the present applicant had assaulted the husband of the applicant. The papers also show that four photographs have been produced by the informant stating to have been clicked at the time of incident. It is then also stated that the videography has been done, but learned APP has fairly admitting that the transcription of the videography has not been done.

7. The investigation appears to have been completed substantially and taking into consideration the allegations, the custodial interrogation is not necessary. As regards the criminal antecedents are concerned, mere stating the crime numbers will not be sufficient but the present position of those cases is important. The present position has not been given by the Investigating Officer, and therefore, they cannot be considered. At the cost of repetition, it can be said that though there are statements stating about the act done by the applicant, yet in each and every case arrest is not the

only option with the investigating agency. The investigation still can go on without arrest of a person, and therefore, by imposing strict conditions, the application can be allowed.

8. For the aforesaid reasons, following order is passed.

ORDER

- 1) Application is hereby allowed.
- 2) In the event of the arrest of the applicant Dinesh Babulal Mali, in connection with Crime No.135 of 2022, registered with Dhule Taluka Police Station, District Dhule, for the offence punishable under Section 354, 324, 143, 147, 149, 323, 504, 506 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 and shall not contact the prosecution witnesses.
- 4) He shall attend the police station on every Sunday in between 10.00 a.m. to 01.00 p.m.
- 5) In case of breach of any condition, the prosecution is at liberty to take recourse under Section 439 (2) of Cr.P.C.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.