

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

11 ANTICIPATORY BAIL APPLICATION NO.451 OF 2022

**MADHAV @ DEVIDAS DIGAMBAR JAMDADE
VERSUS
THE STATE OF MAHARASHTRA**

Mr. Sushant V. Dixit , Advocate for applicant;
Mr. G.O. Wattamwar, A.P.P. for respondent

CORAM : S. G. MEHARE, J.

DATE : 13th June, 2022

PC.

1. Heard learned Counsel for the applicant and learned A.P.P. for the respondent at length.
2. Perused the investigation papers.
3. Learned Counsel for the applicant submitted that the applicant is a political leader having no antecedents. Not a single offence is to his discredit. The complainant had encroached upon the land of the Corporation to raise the construction; hence the residents were having an objection. There is a delay of four days in lodging the first information report. The applicant was not present at the scene of the offence. However, as he had complained against the complainant to the Corporation that the complainant had encroached upon the Corporation's land, the first information report was lodged.

4. Learned Counsel for the applicant would submit that the say filed by the prosecution before the learned Sessions Judge indicates that the injuries sustained by the complainant are simple in nature. He has also pointed out that the complainant has exaggerated the assault by sword and knife. He would submit that the medical report does not reveal the injury likely to be caused by such a dangerous weapon. He has placed on record the photographs showing his presence at another place as well as explaining to the Investigating Officer how the complainant has committed encroachment. On the complaint of the applicant, the Corporation had removed the construction material brought by the complainant. Apparently, there is no evidence against the applicant except the bare words of the complainant. The applicant has been obviously seen falsely involved in the crime. He is ready to co-operate with the investigation if enlarged on bail.

5. The learned A.P.P. would submit that the offence is serious. The weapons used in the offence are to be recovered. He, therefore, prayed to dismiss the application.

6. Perusal of the investigation papers/case diary reveals that the Investigating Officer could not succeed in collecting the relevant evidence showing the presence of the applicant on the spot of the

(3)

incident as alleged in the complaint. No doubt, the offence is serious. The allegations of using dangerous weapons like swords and knives have been made against the applicant and others. However, the applicant has made out a prima facie case to prove that he had initiated the complaint against the complainant for his encroachment on the public land belonging to the Corporation. In an offence punishable under Section 307 of the Indian Penal Code, the injury is immaterial. However, after going through the case diary, I am of the view that there is a substance in the submissions made by the learned Counsel for the applicant that the prosecution has no evidence showing the presence of the applicant on the alleged spot of the incident. The presence of the applicant on the spot of the alleged incident is doubtful. The learned Sessions Court released them on bail considering the role played by them.

7. Having regard to the entire facts and circumstances of the case, though the offence is serious, this Court is of the view that this is a fit case to grant protection to the applicant. Hence, the following order:-

1. Criminal Application is allowed.
2. In the event of arrest of the applicant Madhav @ Devidas S/o Digambar Jamdade, be released on bail, in connection with C.R. No.80/2022, registered with Vimantal Police Station, Nanded, for the offences punishable under Sections 307, 294, 143, 148, 149, 504, 506

(4)

of the Indian Penal Code and under Sections 4 and 25 of the Arms Act, on executing P.B. and S.B. of Rs.25,000/- with one solvent surety of the like amount, on the condition that he shall attend the Police Station as and when called on written notice.

3. Hamdast allowed.

(S. G. MEHARE, J.)

amj