

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

ANTICIPATORY BAIL APPLICATION NO.461 OF 2022

Sabir Shah Haidar Shah

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.Chaitanya C. Deshpande Advocate for Applicant.
Mr.A.M. Phule, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 5th MAY, 2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.333 of 2021 registered with West Deopur Police Station, District-Dhule, for the offence punishable under Sections 395, 504 of the Indian Penal Code and under Sections 3, 25 of the Arms Act.

2. Heard learned Advocate Mr. Deshpande for the applicant and learned APP Mr. Phule for the respondent – State. In order

to cut short, it can be said that they have argued in support of their respective contentions.

3. Perusal of the First Information Report would show that one vehicle had brought Jersey cows from Punjab to Malegaon and those cows were forcibly taken away, so also, the amount was snatched from the driver and the cleaner to the tune of Rs.15,000/-, however, out of that amount again Rs.10,000/- were given back to the driver and the cleaner so that they can go back to their State and then it is stated that the accused persons have committed this offence by showing pistol and some sharp weapon and giving threats to said driver and cleaner. Interestingly, the informant is not that driver or cleaner. He claims to be the President of the Tiger Heart Muslim Gouraksha Seva and Multipurpose Society. He was told about the said incident by one Shaikh Yusuf Shaikh Budhan. The incident is stated to have taken place on 14th November 2021 and the First Information has been lodged on 21st November 2021, though on the same day of incident the informant is stated to have got knowledge about the incident. But then he says that he made inquiry with the local businessman dealing in cattle and then came to know that the accused persons have done the act.

4. The name of the present applicant is appearing in the First Information Report, however, admittedly the informant was not present when the alleged incident took place and he himself has stated that he relied on the statement of one Shaikh Yusuf Shaikh Budhan. Even Shaikh Yusuf Shaikh Budhan has given the incident as such but not with the names of the persons who allegedly committed the crime. The informant then says that he along with Shaikh Yusuf Shaikh Budhan went to Dhule and made inquiry and then it was revealed to them that crime has been committed by the present applicant, one Achhu Kazi, Gaffar, one Mustak Lambu and some unknown persons. Therefore, in order to connect the crime with the present applicant, the statements of the witnesses with whom the incident had taken place are necessary or any direct eye witness. Statement of Shaikh Yusuf Shaikh Budhan would show that he had also received information from some other person who had again received the information from the person from Punjab. Thus, this chain appears to be too long. The statement of the hotel owner and person working in the hotel from where the alleged incident started, have been recorded, but then they both are saying that around 8.30 a.m. on 14th November 2021 a truck came to their

hotel, the driver as well as cleaner came to hotel for breakfast. In the meantime one white colored Indica Car came, from which four persons got down. They started saying to driver and cleaner that they should take out the vehicle. The hotel owner went near them and asked as to what is the matter. Then person from Indica car told that amount of Rs.5,00,000/- is due from the employer of the driver and therefore they are taking the vehicle to Dhule and when the owner would deposit the amount of Rs.5,00,000/-, then the vehicle would be released. Thereafter the driver and cleaner went with truck. So this story is different than the story told in the First Information Report.

5. This Court had granted anticipatory bail to one Shoibuddin @ Saifuddin S/o Kabiroddin Kazi in Anticipatory Bail Application No.207 of 2022 on 9th March 2022. The only difference is that his name was not appearing in the First Information Report. But then, at that time this Court has observed that statements of the driver and cleaner have not been recorded. It appears that the same position continues till today, even after the said order passed on 9th March 2022. Under such circumstance, the applicant deserves anticipatory bail. Hence following order:-

ORDER

- i) Application stands allowed.
- ii) In the event of arrest of applicant – Sabir Shah Haidar Shah in connection with Crime No.333 of 2021 registered with West Deopur Police Station, District-Dhule, for the offence punishable under Sections 395, 504 of the Indian Penal Code and under Sections 3, 25 of the Arms Act, he be released on bail on PR Bond of Rs.50,000/- (Rupees Fifty Thousand) with two solvent sureties of Rs.25,000/- (Twenty Five Thousand) each.
- iii) The applicant shall not indulge in any criminal activity nor he should tamper with the prosecution evidence, in any manner.
- iv) Applicant shall attend West Deopur Police Station, District-Dhule on every Monday and Thursday between 10.00 a.m. to 2.00 p.m., till filing of the charge-sheet and co-operate with the investigation.

[SMT. VIBHA KANKANWADI , J.]