

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.384 OF 2022
WITH APPLN/1400/2022 IN ABA/384/2022

ARUN AMBADAS GHODKE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Ms. Rashmi S. Kulkarni
APP for Respondent / State : Mr. A. A. Jagatkar
...

CORAM : S. G. MEHARE, J.

DATE : 24-06-2022

PER COURT :-

Heard the learned counsel for the applicant.

2. Learned counsel for the applicant would argue that this is a counter as against the report lodged by the wife of the applicant before in time. In fact, no incident as alleged happened, but the false allegations have been levelled that the axe log was used by the applicant and thereby caused grievous injury. She would argue that the axe log has been seized by the police. There are no grievous injuries. The medical report also does not support the prosecution case. It is just an exaggerated allegation of causing the fracture injury. The material investigation is over. The applicant has cooperated the Investigating Officer when attended the police station as per the directions of the court. Hence, he may

be released on anticipatory bail.

3. Per contra, the learned A.P.P. would concede that the prosecution has a report of simple injury, however, the prosecution has no medical report after referring the injured to the higher center. The learned A.P.P. pointed out that during the course of interrogation when the applicant attended the police station, he did not support and disclose about the second weapon used in the crime. Unless the weapon is recovered, there will be no complete investigation. Weapon is the material evidence to be collected to make justice with victim. Hence, the application deserves to be dismissed.

4. The first information report discloses the use of two weapons, out of which only one is recovered. Recovery of the weapon is material in the cases of body offences. If the opportunity of recovery of such weapon is not given to the Investigating Officer, that would cause injustice to the injured. The recovery of weapon is necessary and for that purpose, Investigating Officer may require custodial interrogation. For the above reason, this court is not satisfied that this is a fit case to exercise the discretion in favour of the applicant. Hence, the application stands dismissed.

5. In view of dismissal of application, Criminal Application No. 1400 of 2022 stands disposed of.

6. At this stage, the learned counsel for the applicant requests for continuation of interim protection granted to the applicant for a period of four weeks. The interim protection granted to the applicant is continued for a period of four weeks from today.

(S. G. MEHARE)
JUDGE

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