

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

23 ANTICIPATORY BAIL APPLICATION NO.671 OF 2022

CHANDRAPRAKASH SOPANRAO KHATKE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Ameya N. Sabnis, h/f Mr. V. D. Gunale.
APP for Respondent/State: Mr. V. S. Badakh.
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CORAM : **SARANG V. KOTWAL, J.**

DATE : 06th June, 2022.

PER COURT:

. The applicant is seeking anticipatory bail in connection with C.R. No.152 of 2022, registered at Udgir Rural Police Station, Latur on 24th April, 2022, under Sections 109, 114, 143, 144, 147, 148, 149, 323, 327, 336, 337, 341, 452, 504 and 506 of the Indian Penal Code and Section 135 of the Maharashtra Police Act.

2 Heard Advocate Mr. Ameya N. Sabnis, holding for Mr.V.D.Gunale and Mr. V. S. Badakh, learned APP for the respondent/ State.

3 The FIR is lodged by one Abhijit Khatake. He has stated that prior to the incident dated 23rd April, 2022 about 15 days back, there was an incident wherein there was a quarrel between informant's

relative Sunil Khatake and some unknown persons. A complaint was lodged at the same police station against Sunil Khatake. On 22nd April, 2022 when informant and Sunil Khatake were discussing about the incident, somebody got the impression that informant had abused the applicant. This false information was given to the applicant. Therefore, on 23rd April, 2022 at about 10:30 am, the applicant was brought to the informant's house by the informant's uncle Ishwar. At that time, the informant explained to the applicant that he had not abused the applicant. It is mentioned in the FIR that the applicant was not convinced and he had already called his associates from Shelhal and Udgir. It is his case that while they were discussing, the applicant telephonically called those persons and asked them to come near the house of informant. He further instigated those people. Therefore, his associates started pelting stones on the informant's house. In that incident, the informant's aunt Kamalabai Raje and uncle Ishwar Khatake got injured. There were other relatives, who were assaulted by other accused. There are allegations that accused Balaji and accused Sachin forcibly took away two golden chains from Arunabai and Shobabai. Accused/Suraj gave a blow of iron rod on the informant's leg. The others were assaulted by kick and fist blows. The informant and others raised shouts and therefore, the assailants went away on three motorcycles towards Udgir. While the informant and others were going towards Government hospital, the accused

intercepted them and again assaulted the informant and his brother Yogesh by kick and fist blows. On this basis, FIR is lodged.

4 Learned counsel for applicant submitted that the applicant is ex-member of Zilla Parishad, Latur and his wife is at present Sarpanch of village Shelhal and therefore, he is implicated falsely because of political rivalry. He submitted that there are no specific allegations of assault against the present applicant. The allegation that he called others at the spot is also not supported by any independent material. He submitted that in this background, the applicant's custodial interrogation will not be justified.

5 On the other hand, the learned APP submitted that there are consistent statements of the informant and his relatives namely Ishwar, Shobabai, Aruna etc. The incident had occurred only because the applicant had called all the other accused to the house of informant.

6 Learned counsel for the applicant further submitted that four other accused including Sachin and Balaji were arrested and were released on regular bail. He further submitted that though there are allegations against Sachin and Balaji of removing gold chains, nothing was recovered from them. Learned APP submitted that according to

the prosecution case, Sachin and Balaji had given those chains to the present applicant and therefore, his custodial interrogation is necessary.

7 I have considered these submissions and have also perused the investigation papers produced before me by the learned APP. Though there are consistent statements of eye-witnesses, Kamalabai Raje has not stated that applicant had telephonically called others and thereafter, incident had taken place. According to her, while discussion was going on suddenly those unknown persons came there and the incident started. The spot of incident itself does not show any stones lying there as alleged by the informant and others. There is no damage shown to the property. Some shoes were found and it is mentioned in the spot *Panchanama* that those shoes belong to the applicant. However, it is not supported by any other evidence.

8 As far as the injuries are concerned, the informant Abhijit has suffered fracture of 4th and 5th toe on his right foot. He has suffered simple injury on his forearm. Shobha has not suffered any visible injury. Yogesh has suffered four simple injuries in the nature of contusion and abrasion. Ishwar has suffered one simple contusion. Swati has suffered two simple abrasions. Arunabai has not suffered any injury. Anandrao has suffered two minor injuries. Shobhabai has

suffered two minor injuries. Thus, except for the fracture of two toes sustained by informant Abhijit, all the injuries suffered by all the injured are absolutely minor in nature. The injury to Abhijit causing fracture of his toes is attributed to Suraj. In the entire FIR, there is no specific role of assault attributed to the applicant. Therefore, it is doubtful as to whether the applicant was instrumental in gathering unlawful assembly having object of causing grievous injuries. The narration appears to be exaggerated and therefore, there appears to be some substance in the submissions of the learned counsel for applicant that the applicant could be falsely implicated due to political rivalry. Learned APP submitted that the applicant has six antecedents against him. However, the learned counsel for applicant pointed out that last of those offences was of the year 2011 and therefore, they are quite stale.

9 At this stage, considering this background, the applicant's custodial interrogation is not necessary as in case of his arrest, he would suffer irreparable damage. Therefore, I am inclined to grant anticipatory bail to the applicant. Hence, the following order is passed:

ORDER

- I. In the event of his arrest in connection with C.R. No.152 of 2022, registered at Udgir Rural Police Station, Latur,

the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.25,000/- (Rupees Twenty-Five Thousand Only) with one or two sureties in the like amount.

- II. The applicant shall attend the concerned police station as and when called and shall cooperate with the investigation.
- III. The application stands disposed of accordingly.

[SARANG V. KOTWAL, J.]

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