

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.704 OF 2022

TUSHAR DILIP BHAGYAWAN
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Vaibhav B. Kulkarni
APP for Respondent – State : Ms. V. S. Choudhari
...

CORAM : S. G. MEHARE, J.

DATE : 14-06-2022

PER COURT :-

Heard the learned counsel for the applicant and the learned APP for the respondent/ State at length.

2. First Information Report was registered against the applicant vide Crime No. 0557 of 2021 registered with Partur Police Station, District Jalna, for the offences punishable under Sections 307, 324, 143, 147, 148, 149, 504 of the Indian Penal Code.

3. The incident, as alleged, reveals that 6 to 7 persons, along with the main assailant, were involved in the serious crime of attempting to commit murder. It is also alleged that weapons like a knife and iron rods were used to commit the crime, and three persons were stabbed and injured.

4. Learned counsel for the applicant submits that the applicant was not named in the first information report; however, in a supplementary statement of Kartik Borade, for the first time, his name came into the light. He would further submit that the applicant is a college-going boy. The injured witness Kartik was also going into the same college. He might have misunderstood that the applicant belonged to the group of assailants; hence Kartik falsely told his name. The applicant is a student of B.Sc. First Year. His examination is approaching. At the time of the alleged incident, he was not on the spot. It was rival group fighting. The applicant has no concern with the matter. Even in the supplementary statement, no allegations were made against the applicant that he has played an active role in the alleged crime. If he is sent behind bars, he will lose a crucial time in his life. Hence, he may be released on bail.

5. Per contra, learned APP for the respondent/State has strongly opposed the application contending that there were unknown persons; however, after the medical treatment, injured witness - Kartik disclosed the applicant's name in the supplementary statement. The offence is serious. Deadly weapons were used in the crime, and there was a riot. Hence, it is a fit case for rejecting the anticipatory bail.

6. The FIR does not reveal the name of the applicant. Learned counsel for the applicant referred to the statement of Kartik dated 17.12.2021; at that time, he did not know the name of the applicant. However, in a supplementary statement dated 05.01.2022, he took the name of the applicant, alleging that he, along with other persons, was on the spot of the incident and started assaulting them. The supplementary statement always raises suspicion. There are no specific allegations of the use of a weapon by the applicant. No description of unknown persons is given in the FIR.

7. Having regard to the facts of the case and disclosure of the name of the applicant at the belated stage, his age, no antecedents to discredit, and his educational carrier, though the offence is serious, this appears a fit case to grant protection as prayed.

8. Hence, the following order –

I) Application is allowed.

II) In the event of arrest of the applicant – Tushar Dilip Bhagyan, in connection with Crime No. 0557 of 2021 registered with Partur Police Station, District Jalna, for the offences punishable under Sections 307, 324, 143,

147, 148, 149, 504 of the Indian Penal Code, he be released on PR of Rs.20,000/- with one solvent surety in the like amount on the condition that he shall attend the police station as and when called on written notice by the Investigating Officer.

III) *Hamdast* allowed.

(S. G. MEHARE)
JUDGE

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