

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

ANTICIPATORY BAIL APPLICATION NO.957 OF 2020

Jaykishan S/o Hanumanprasad Pande

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.B.R. Waramaa Advocate for Applicant.
Mr.A.M. Phule, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 25th FEBRUARY, 2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.128 of 2020 registered with Peth Beed Police Station, Beed, District-Beed for the offence punishable under Sections 326, 324, 323, 504, 506, 509, 143, 147, 148, 149 of the Indian Penal Code and under Section 4 and 27 of the Arms Act.

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

to cut-short, it can be stated that both the sides have made submissions in support of their respective contentions.

3. It will not be out of place to mention here that interim protection was granted to the applicant by this Court on 23rd October 2020, on conditions. Applicant was directed to remain present before the Investigating Officer on every Monday and Thursday between 4.00 p.m. to 6.00 p.m. till further orders. The interim relief was granted till 10th December 2020 as the notice was made returnable on that date. On 10th December 2020, interim relief was continued till 19th January 2021. On 19th January 2021, interim relief was continued till 3rd February 2021 and again it was continued till 22nd February 2021 and further it was continued till 10th March 2021. Thereafter, the applicant and / or his Advocate has not taken the matter on Board and had not got the interim relief extended after 10th March 2021. Thereafter the circulation of the matter was taken for 24th January 2022. On that date, statement was made by the learned APP that charge-sheet has been filed on 7th September 2021 and therefore the applicant was directed to produce the copy of the charge-sheet and the interim relief was extended till 2nd February 2022. It was again extended till 14th February 2022,

and on 14th February 2022 it was extended till 25th February 2022. Affidavits were directed to be filed, in the meantime, by both the parties, as there was dispute up-to which date the applicant has attended the Police Station.

4. The affidavits filed on behalf of both the parties would show that applicant had attended the Police Station lastly on 8th July 2021 and the charge-sheet has been filed on 1st September 2021. The applicant has his own reasons for not attending the Police Station though ordered specifically. According to him, when he had gone to the Police Station, the Police informed him that attendance is not required henceforth and therefore he obeyed the directions of Police. The Investigating Officer denies this fact. The point to be noted is that when applicant was directed by this Court to attend the Police Station, he cannot come with the case that he obeyed the order of somebody else. Whatever reason the applicant is giving for not attending the Police Station after 8th July 2021 till filing of the charge-sheet, is not appealing. He could have come to this Court if he had any kind of difficulty and could have prayed for relaxation of that condition. His action in allegedly obeying the orders of Police and not attending the Police Station on some other ground is not

appealing at all. Still the case will have to be considered on its own merits also.

5. Perusal of the First Information Report (for short "F.I.R.") in which the applicant is apprehending his arrest i.e. Crime No.128 of 2020 would show that it is subsequently filed i.e. around 17.56 hours on 6th May 2020, whereas the F.I.R. filed by the present applicant with the same Police Station vide Crime No.127 of 2020 was at 15.58 hours and it was under Sections 143, 147, 148, 149, 452, 326, 324, 392, 323, 504, 506 of the Indian Penal Code.

6. Crime No.128 of 2020 has been lodged by one Pawan Rajput, and as regards the present applicant is concerned, he has stated that applicant had assaulted the informant by sword on back side of head. The injury certificate of the informant which is annexed along with the charge-sheet would show that, he has sustained two injuries, one is on occipital region. It is stated to be with sharp object and the nature is stated to be grievous. The second injury is contused lacerated wound on right parietal region and it is also grievous. The informant appears to be in good condition now. Though it is stated that no weapon has

been seized, a fact required to be noted is that though this Court had granted interim bail on 23rd October 2020 and attendance was granted and then the applicant was arrested by the Investigating Officer on 21st November 2020, the documents produced by both the parties along with their affidavits would show that the applicant has attended the Police Station periodically till 7th July 2021. There was every scope and opportunity made available to the Investigating Officer to interrogate the applicant and if possible, the recovery of the weapon could have been made from him. Now the charge-sheet is filed. That means, investigation is over. Under such circumstance, taking into consideration the fact that the F.I.R. lodged by the applicant is prior in time and the F.I.R. in which he is apprehending his arrest is subsequent, the informant's health appears to be good, informant is accused in the cross case and appears to be on bail, the interim protection granted by this Court to the applicant deserves to be confirmed.

7. Before parting, it will have to be observed that the applicant was not consistent in getting his matter on Board and continuation of the interim relief. This act will have to be deprecated, otherwise it would be very easy for any applicant to

get the interim relief and thereafter to see that matter will not appear on the Board at all. Therefore, cost is required to be imposed on the applicant. With these observations, following order is passed:

ORDER

- i) Application stands allowed.
- ii) The interim protection granted to the applicant by this Court by order dated 23rd October 2020 stands confirmed. It is thus clarified that in the event of arrest of applicant – Jaykishan S/o Hanumanprasad Pande in connection with Crime No.128 of 2020 registered with Peth Beed Police Station, Beed, District-Beed for the offence punishable under Sections 326, 324, 323, 504, 506, 509, 143, 147, 148, 149 of the Indian Penal Code and under Section 4 and 27 of the Arms Act, he be released on bail on PR Bond of Rs.15,000/- (Rupees Fifteen Thousand) with one solvent surety in the like amount, if he is not already released.
- iii) Applicant shall not indulge in any criminal activity nor shall he tamper with the evidence of the prosecution in any manner.

iv) Applicant to deposit cost of Rs.5,000/- (Rupees Five Thousand) to the High Court Legal Services Sub-Committee, Aurangabad within two weeks from today.

[SMT. VIBHA KANKANWADI , J.]

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