

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.982 OF 2022

NIKHIL SURESH RAJPUT
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Bhausaheb Sadashivrao Deshmukh
APP for Respondent/State : Mr. K. S. Patil
...

CORAM : S. G. MEHARE, J.

DATE : 01-08-2022

PER COURT :-

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

2. The prosecution has a unique case. The applicant was absconding in Crime No. 466 of 2021. He was arrested and produced before the Court. The learned Magistrate took the accused in the Magisterial Custody Remand (MCR) till 21.02.2022. Thereafter, the police applied for three days Police Custody Remand (PCR). The learned Magistrate granted PCR for the purpose of identification parade only. Thereafter, he was released on bail. It has been alleged that when the applicant was arrested in Crime No. 466 of 2021, he assaulted the police with kicks and blows and caused the injuries with nails. The offence for those acts was registered on 14.02.2022 itself. However, it was not arrested in the said crime.

3. The learned counsel for the applicant submits that the applicant was in a custody of the police immediately after the alleged incident. But, the applicant was never produced before the learned Magistrate in the present crime. He was neither sought transfer from Crime No. 466 of 2021 in the present crime. The applicant was also in police custody after the magisterial custody. That time also, the police did not seek his custody. The police wanted to register the crimes one after another. The police have registered many false crimes against the applicant. Since his release in crime No. 466 of 2021, the applicant was residing in his home. The police had never been to the house of applicant to arrest. The applicant learnt in the month of May 2022 that present crime was lodged against him. Then, he immediately rushed for anticipatory bail before the learned Sessions Court. The learned Sessions Court rejected his bail application. A false case has been set against the applicant. Since there are antecedents to the discredit of the applicant, one more false case has been set up against him. The custodial interrogation of the applicant is not required.

4. The prosecution has no satisfactory explanation why the applicant was immediately not produced before the Court in the present crime when he was in their custody. The prosecution has also no explanation, why they did not ask the learned Magistrate for transfer of the applicant in the present crime when he was

arrested in Crime No. 466 of 2021.

5. The learned APP has vehemently argued that there are around 17 crimes to the discredit of the applicant. He was apprehended in Crime No. 466 of 2021. Learned APP has tried to argue that the applicant was very aggressive and used criminal force and caused injuries to the public servants. The applicant has bad past, therefore, he may not be released on bail.

6. As discussed above, the prosecution has no explanation why the applicant was not produced and arrested in the present crime when the police apprehended him in Crime No. 466 of 2021. The prosecution has also no explanation why they did not apply to the learned Magistrate for transferring this applicant/accused in the present crime when he was arrested in another crime. Not only this, immediately after arrest the applicant was produced in Crime No. 466 of 2021, he was taken in MCR, few days thereafter, the learned Magistrate granted him PCR for identification parade, which is otherwise not a ground to refuse the bail as provided under proviso to Sub-Section (1) of Section 437 of the Code of Criminal Procedure. After the PCR, the learned Magistrate rejected the prayer of police to extend the PCR and then again the applicant was sent to the MCR. Thereafter also police did not make an application to the Court for seeking the custody of the applicant. The reason best known to the police why they allowed

to release the applicant on bail in Crime No. 466 of 2021 and did not arrest him in the present crime when he was produced before the learned Magistrate.

7. In view of the conduct of the police, there appears scope to believe the applicant that the police are registering the crime against him one after another. That apart, there are no allegations of use of weapon in the alleged crime. The nail scratches alleged to have been done in the month of February 2021. So, there is least possibility of trace evidence. In view of the facts, the applicant is entitled for anticipatory bail. Hence, the following order -

- i) The application is allowed.
- ii) In the event of arrest, applicant Nikhil s/o. Suresh Rajput be released on bail, on furnishing P.B. and S.B. of Rs.15,000/- with one solvent surety of the like amount, in connection with C.R.No. 99 of 2022 registered with Bazarpeth Police Station, Bhusawal, District Jalgaon, for the offence punishable under Sections 332, 353, 506 read with Section 34 of the Indian Penal Code.

**(S. G. MEHARE)
JUDGE**

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