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

ANTICIPATORY BAIL APPLICATION NO.1053 OF 2020

JYOTIRAM ANNASAHEB KALE
VERSUS
THE STATE OF MAHARASHTRA

Mr Z. H. Farooqui, Advocate holding for Mr. Niteen V. Gaware,
Advocate for applicant;
Mr S. B. Narwade, A.PP. for respondent

CORAM : S. G. MEHARE, J.

DATE : 20th September, 2022

PC.

1. It is really surprising that the applicant has not been arrested since last five years. The offence was registered in the year 2017. His anticipatory bail application was rejected by the learned Additional Sessions Judge in the year 2018. Hence, the applicant approached this Court, however, on 08.01.2019, the said Anticipatory Bail application No.1109 of 2018 was withdrawn, on instructions, and was disposed of as withdrawn. Thereafter, till 17.02.2022, the applicant did not approach or file any application before Sessions Judge. The learned Sessions Judge, by his order dated 26.03.2022 rejected the anticipatory bail application. Thereafter, the present application was filed on 24.12.2020. However, the said matter was not circulated till 10.08.2022. That day the notices were issued to the respondents and

(2)

the matter was listed for 24.08.2022. The applicant had submitted a copy of the charge-sheet and hearing was adjourned to 13.09.2022. Thereafter, on 13.09.2022, the learned counsel for the applicant sought a week's time. It was granted and the matter is listed today.

2. The learned counsel for the applicant would submit that the applicant is a Soldier. He is the only bread winner of his family. A N.C. was registered against the complainant on the report of his mother-in-law. Only to counter blast the said report, false allegations have been levelled against the applicant. He has no concern with the said dispute. There is enormous delay of seven days in lodging the report. He has been arraigned as an accused only to throw him away from his service. Besides the above, he has also referred to the statements of some witnesses and said that their statements reveal that another co-accused assaulted the injured and not the present applicant. The injured were discharged on 23.12.2017, however, the complainant lodged the report on 25.12.2017. It is also argued that the charge-sheet has been filed, therefore, nothing is to be investigated against the applicant. He has also referred to the order passed by this Court in A.B.A.No.161 of 2018 dated 15.03.2018, in which the co-accused were released on anticipatory bail. He, therefore, claimed the parity.

(3)

3. The learned A.P.P. has strongly opposed the application. He would submit that the Investigating Officer had made every endeavour to arrest the applicant. However, the applicant avoided his arrest by one or the other mode. There are direct allegations against the applicant. He assaulted the injured with iron tommy. They have suffered the injuries. One of the injured has suffered grievous injury on his occipital area of the head. The applicant is avoiding his arrest since last five years. Thus, the applicant is absconding since then. The offence is serious. The weapon is to be recovered. He has also argued that the applicant took his own time to approach the Court as per his choice and was searching for the favourable Court. He prayed to dismiss the application.

4. Perused the papers produced by the prosecution and the charge-sheet. In the first information report, there are direct allegations against the applicant that he assaulted two persons with iron tommy and caused the injuries. The injured were examined by the hospital in time and they were hospitalized for some days. Therefore, it cannot be said that there is inordinate delay in lodging the first information report. The witnesses which are referred to by the learned counsel for the applicant have also categorically stated that the applicant was also hitting the injured with iron tommy. The

(4)

injury certificates corroborate the allegations levelled against the applicant. The deadly weapon is yet to be recovered. Considering the allegations levelled against the applicant and his conduct, the applicant has no case for anticipatory bail. Hence, the application stands dismissed.

(S. G. MEHARE, J.)

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