

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1162 OF 2022
WITH APPLN/2883/2022 IN ABA/1162/2022

PRASAD RAMNATH GARJE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Abhaysinh K. Bhosle
APP for Respondent : Ms. V. S. Choudhari
Advocate for complainant (assist to APP) : Mr. V. R. Dhorde
...

CORAM : S. G. MEHARE, J.

DATE : 06-09-2022

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for the respondent/State and Mr. V. R. Dhorde, the learned counsel for the complainant.

2. No doubt, the incident took place during the victory procession. The applicant has not been named in the first information report. However, one injured took his name subsequently, alleging that he assaulted him with an iron rod.

3. The applicant has a specific case that he is serving in the revenue department. The detailed report has been lodged with a

specific role and name of each accused. The applicant, a son-in-law of the prime accused and in service, has been falsely implicated in the crime. The applicant is also not a resident of the village where the incident occurred. Therefore, he may be granted anticipatory bail.

4. The learned A.P.P. for the respondent/State would submit that the statement of injured was recorded on the same day, and he has disclosed the name of the applicant. However, she fairly conceded that the name of the applicant was not mentioned in the first information report. She referred to the injury certificate. The injured has suffered a simple injury. The injury was caused by a sharp weapon. She would submit that since the applicant has played an active role in the crime, he cannot take the benefit that he is serving in the revenue department. He is a close relative of the prime accused. Therefore, he is not entitled to anticipatory bail.

5. Mr. Dhorde, the learned counsel for the complainant, has vehemently argued that the complainant is from Nashik. Hence, he did not name all the accused. However, on the day of the incident, the applicant had been to the village with his wife to cast vote and it was holiday. Therefore, it cannot be said that the applicant is not involved in the crime.

6. The learned counsel for the applicant would submit that the first informant is a Chairman of the society. He knew every person in the village by name. Since the applicant was not involved in the crime, his name has not been mentioned in the first information report.

7. Perused the papers. There is no dispute that the name of the applicant is not in the first information report. One of the injured took his name. It was alleged by him that the applicant assaulted him with an iron rod. It is a hard and blunt object. However, the injury certificate is silent as regards the history of assault. The injury report reveals that the injury was caused by a sharp weapon. The weapon allegedly used by the applicant was hard and blunt. The documents collected by the Investigating Officer do not corroborate the prosecution case. Therefore, the possibility of involving the applicant unnecessarily in the crime cannot be ruled out. Though the first informant is a resident of Nashik, he was the Chairman of the society; so, he must know the name of each person from the village. The accused is from a rival group. So, the complainant would make a mistake in identifying rivals. Considering the facts in toto, the Court is of the view that the prosecution has no strong evidence against the applicant except the statement of injured that, too, the injury does not match with the weapon allegedly used. Therefore, the application deserves to

be allowed. Hence, the following order:-

- i) The application is allowed.
- ii) The interim protection granted to the applicant by order dated 26.08.2022 is confirmed on the same terms and conditions.
- iii) Criminal application No. 2883 of 2022 in A.B.A.No. 1162 of 2022 is allowed.

(S. G. MEHARE)
JUDGE

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