

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1285 OF 2021

TALLEB @ CHOTU RAFIQ BEG

VERSUS

THE STATE OF MAHARASHTRA

.....

Advocate for Applicant : Mr. Shaikh Mazhar A. Jahagirdar

APP for Respondent-State : Mr. A. M. Phule

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CORAM : SMT.VIBHA KANKANWADI, J.

DATE : 27-01-2022.

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.06 of 2014, registered with Bardapur Police Station, District Beed, for the offence punishable under Section 307, 353, 143, 147, 149 of Indian Penal Code.

2. Heard learned Advocate Mr. Shaikh Mazhar A. Jahagirdar for applicant and learned APP Mr. A. M. Phule for respondent-State. In order to cut short, it is stated that both of them have made

submissions in support of their respective contentions.

3. At the outset, it is to be noted that the FIR came to be lodged on 01-02-2014 by police constable Bandu Keshavrao Kalandar, attached with SDPO Itwara Nanded Special Squad. He states that offense vide Crime No.06 of 2014 was pending with Itwara Police Station under Section 392 of the IPC. The police party had come to Parli in search of suspected accused i.e. the present applicant. When they received information that the applicant has plan to flee away towards Bidar in Karnataka in vehicle on 31-01-2014 around 16.15 hours, they chased Ertiga vehicle bearing No.MH-44/3190. When they were at Ujni Pati, Taluka Ambajogai, on Pangaon-Renapur road, in order to avoid the police, those persons i.e. accused tried to give dash to the informant at Ujni Bus Stand. The vehicle was tried to be rushed towards the person of the informant. As a result of which, he fell down and had sustained injuries to his right hand, right leg. PSI Tayde and others managed to arrest Mohammod Ijjat Ali Jafri, Sayyad Mainoddin Sayyad Miya and Yasin Ali Azam Ali. However, the applicant and one Mohsin Naser Ali managed to flee from that place. Even at that time also when the police party tried to nab present applicant, there was manhandling

and he had received injury to his nose and forehead, but he ultimately managed to flee away. Thus, it is to be noted that the informant was knowing the applicant and every effort was appear to have been made to nab the applicant. First of all he had dare to run the Ertiga vehicle towards the informant in order to kill him and then when the police party tried to manage to arrest those persons, they could arrest only three and two fled away.

4. The record shows that the applicant had gone absconding since then. Interesting point to be noted is that the wife of the present applicant appears to have lodged private complaint RCC No.92 of 2014 against the police persons for the offence punishable under Section 341, 324, 323, 427, 354, 504, 506 read with 34 of the IPC. By order dated 12-09-2014, the learned Magistrate has issued process only under Section 323 read with 34 of the IPC. As regards the other sections are concerned, the complaint appears to have been dismissed. This cannot give an advantage to the present applicant. He has not given as to where was he since 2014, when the charge-sheet is admittedly filed under Section 299 of the CrPC against him. The learned Additional Sessions Judge while dismissing the bail application filed by the present applicant, has also observed

that there are many criminal cases of serious nature pending against the applicant. Under such circumstances, when the accused is absconding and there are offences pending against him, this cannot be the fit case where the extraordinary jurisdiction of this Court under Section 438 of the CrPC could be exercised. In view of the same, application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-