

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 ANTICIPATORY BAIL APPLICATION NO.1472 OF 2021

BHIMRAO VITTHAL KADAM
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. P. B. Kamble
APP for Respondent-State : Ms. Vaishali Patil Jadhav
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 27-01-2022

PER COURT :

1. Present applicant is apprehending his arrest in connection with Crime No.188 of 2021, registered with Hadgaon Police Station, District Nanded, for the offence punishable under Section 452, 326, 504, 594 read with 34 of the Indian Penal code.
2. Heard learned Advocate Mr. P. B. Kamble for applicant and learned APP Ms. Vaishali Patil Jadhav for respondent-State.
3. It has been vehemently submitted on behalf of the applicant that the First Information Report contains two incidents, one is at 06.00 p.m. and another at 06.30 p.m. on 28-06-2021. The first incident was at the grocery shop of applicant No.1 and another is stated to have taken place in the house of the informant. Though the allegation is

stated that the present applicant had assaulted the informant by iron rod on his head, now the investigation is complete and charge-sheet is filed. The co-accused have been released on anticipatory bail by this Court on 05-10-2021. There is cross complaint and in that case the informant and co-accused have been released on bail. Therefore, the applicant be released by imposing heavy conditions.

4. The learned APP strongly opposed the application and submitted that the application filed by the present applicant along with co-accused i.e. ABA No.1100 of 2021 with companion matters was decided by this Court on 05-10-2021 and at that time it was allowed to the extent of applicant No.2, 3 and 4. As regards the present applicant is concerned, it was dismissed as withdrawn. The learned APP pointed out paragraph No.4 from the said order which runs thus:-

“Since the Court was not inclined to grant relief to applicant No.1, learned Advocate for applicants, on instructions, submitted that he would not press the application for applicant No.1 and the same may be allowed to be withdrawn.”

Thereafter, once again the applicant had filed ABA No.1289 of 2021. That application was decided on 23-11-2021. At that time it was

considered that it was the second application for anticipatory bail, and the earlier order would indicate that the Court was not inclined to grant any kind of relief to the applicant, so also the learned Advocate for the applicant was absent, said application was dismissed for want of prosecution. Practically this is the third bail application. The custody of the applicant is required in view of the fact that he is the person who had inflicted the blow of iron rod on the head of the informant.

5. At the outset, it is to be noted that the matter is coming for the first time, however, from the submissions those have been made on behalf of the applicant it can be seen that the charge-sheet is stated to be already produced. The applicant has not taken care to annex the copy of the charge-sheet along with this application. Under such circumstances, it cannot be gathered as to whether the weapon with which the injury is stated to have been caused by the present applicant, has been seized or not. Definitely seizure of the weapon in view of the fact that the applicant alleged to have used iron rod to cause injury to the head of the informant; the said weapon deserves to be recovered. Merely because the cross complaint is filed, that does not *ipso facto* gets any plus point in

favour of the applicant to get anticipatory bail. The role assigned to each of the accused is therefore required to be considered. Earlier also this Court was not inclined to grant any relief to applicant No.1, and therefore, on the instructions then that application was got withdrawn. Thereafter, the another application came to be disposed of for want of prosecution and now this is the third bail application. Definitely, when till today the applicant could not have been arrested, it also has an element that he might be absconding and it is very likely when the charge-sheet is filed and definitely it would have been by taking benefit of Section 299 of the Code of Criminal Procedure. Under such circumstances, no case is made out to grant any relief to the applicant and his application deserves to be rejected at the threshold, accordingly it rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.