

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1508 OF 2021

PRADEEP S/O BHAUSAHEB KALE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. M. P. Kale
APP for Respondent-State : Mrs. Vaishali Patil-Jadhav

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 18.01.2022

ORDER :-

. Heard learned Advocate Mr. M. P. Kale for the applicant and learned APP Mrs. Vaishali Patil-Jadhav for respondent-State.

2. Applicant is apprehending his arrest in connection with Crime No.281 of 2021 dated 28.08.2021, lodged by one Aditya Dhondiram Sathe, with Ausa Police Station, Dist. Latur for the offence punishable under Sections 302, 307, 143, 147, 148, 149, 504, of Indian Penal Code.

3. It has been submitted on behalf of applicant that perusal of the First Information Report would show that presence of applicant is shown, however, no role has been attributed to him. Main allegations are against co-accused Mahesh Salunke and Rohit Panchal. Further, there is considerable delay in lodging the FIR. When no specific role is

ascribed to applicant, his custodial interrogation is not required for the purpose of investigation. He is ready to abide by the terms of the bail.

4. Per contra the learned APP has strongly opposed the application on the ground that the contents of FIR and statements of the witnesses recorded so far disclose specific role of the applicant. His presence has been shown and in the supplementary statement, the informant has stated that the present applicant had used weapon to cause injuries to the deceased. Offence is serious and there is *prima facie* evidence against applicant. He does not deserve pre-arrest bail.

5. Perusal of the FIR would show that informant was informed by one Arun Dolare that maternal uncle of informant is being assaulted by some persons near Gorakshan. Informant then gave phone call of his uncle Laxman Bhosale. Uncle told him that he has been assaulted by one Babu Pawar and Mahesh Saluke by means of belt and kick-blows. Uncle also told him that he has taken treatment in government hospital, AUSA and would return to his village. Informant then went from Sonchincholi to Shindala. Laxman received phone call from Mahesh around 5.30 p.m. stating that he should come to Belkund and they would sort out the matter. Then Laxman went with one Malappa Landge. Informant followed them. He saw applicant and co-accused. There was altercation between Laxman and Mahesh. Mahesh had assaulted on the head and

back of Laxman with stick, Balaji assaulted with his shoe on head of Laxman, Rohit assaulted Laxman with iron rod on head. When informant tried to intervene, he was pushed. Informant then called his father. Those assailants went away. Informant and his father had taken Laxman to hospital and they waited for him to regain consciousness, but ultimately lodged report on 28.08.2021.

6. It appears that later on Laxman expired and offence under Section 302 of Indian Penal Code came to be added.

7. If we consider the allegations in the FIR, only the presence of the applicant is shown. No specific role is attributed to him. It is not clear that which weapon was allegedly used by him. The subsequent statements of informant and / or witnesses will have to be proved by prosecution that they are not tainted with malafides. Under this circumstance, the interim protection granted earlier by this Court on 22.12.2021 deserves to be confirmed, with conditions to be attached. Hence, following order.

ORDER

I) Application stands allowed.

II) The interim protection granted earlier by this Court vide order dated 22.12.2021 stands confirmed and made absolute. It is

thus clarified that in the event of arrest of the applicant - Pradeep Bhausaheb Kale in connection with Crime No.281 of 2021, registered with AUSA Police Station, District Latur, for the offence punishable under Section 302, 307, 143, 147, 148, 149, 504 of Indian Penal Code, he be released on P. R. Bond of Rs.20,000/- (Twenty thousand) with one or two sureties of like amount.

III) The applicant shall not tamper with the evidence of the prosecution in any manner.

IV) The applicant shall not indulge in any criminal activity.

V) He should remain present before the Investigating Officer one every Monday and Friday between 11.00 a.m. to 02.00 p.m. till filing of the charge-sheet and co-operate with the investigation.

[SMT. VIBHA KANKANWADI, J.]

scm