

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 ANTICIPATORY BAIL APPLICATION NO.1585 OF 2021

RAMDHAN SHRIHARI GUTTE
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. A.D. Gade, Advocate for the applicant

Mr. N.T. Bhagat, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 03rd FEBRUARY, 2022

ORDER :

1 Applicant is apprehending his arrest in connection with Crime No.242/2021 dated 17.10.2021 registered with Parli Rural Police Station, Dist. Beed, for the offence punishable under Section 354, 326, 323, 504, 506 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. A.D. Gade for the applicant and learned APP Mr. N.T. Bhagat for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 First Information Report has been lodged by the sister-in-law of

the applicant, stating that she has four children and her husband has gone missing since last about five months prior to the First Information Report dated 17.10.2021. When she was grazing the cattle at Dongar Vasti near her agricultural land at about 3.00 p.m. on 16.10.2021, the applicant went there and by holding her hand he told her that since last many days her husband is not there and he loves her and he tried to take her aside. But, at that time, feeling ashamed, she raised voice. At that time, she was assaulted by the applicant by a stick which was lying nearby. She then states that fracture has been caused to her right hand. While fleeing away the applicant had given threat to kill her.

4 Taking into consideration the police papers it appears that substantial part of the investigation is over, nothing is required to be recovered at the instance of the applicant. Though the Investigating Officer appears to be contending that the stick is required to be recovered under Section 27 of the Indian Evidence Act, the fact is that informant has not stated that the applicant had come armed with the stick, rather she states that the applicant had used the stick which was lying nearby. Then, even if we accept that he had assaulted her, why he would take that stick along with him. Another fact to be noted is that the injury, that has been sustained, is said to be grievous and, therefore, Section 326 of the Indian Penal Code has

also been added, but whether the stick can be said to be a dangerous weapon, would depend upon the dimensions of the stick. The informant does not say that while fleeing away the applicant had taken that stick along with him. Further, this Court had granted interim protection to the applicant. He could have been asked by the Investigating Officer to remain present before him thereafter, but it appears that no such notice was given by the Investigating Officer to him. The learned Advocate for the applicant submits that the applicant is not residing in the village now and he will not try to tamper with the evidence in any manner. In view of these facts, the interim protection granted earlier deserves to be confirmed, however, additional conditions are required to be imposed.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicant vide order dated 23.12.2021, is hereby confirmed and made absolute. In other words, if the applicant is not formally arrested, in the event of arrest of the applicant viz. Ramdhan Shrihari Gutte, in connection with Crime No.242/2021 dated 17.10.2021 registered with Parli Rural Police Station, Dist. Beed, for the offence punishable under Section 354, 326, 323,

504, 506 of the Indian Penal Code, 1860, he be released on P.R. of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or more sureties in the like amount.

3 The applicant shall not indulge in any criminal activity nor he should tamper with the evidence of the prosecution, in any manner.

4 Applicant shall cooperate with the investigation.

5 He shall not visit the village Daithana Ghat, Tq. Parli Vaijnath, Dist. Beed till the conclusion of trial. He should reside elsewhere, and before submission of bail papers, the applicant should give complete address of his proposed residence with his mobile number to the Investigating Officer.

(Smt. Vibha Kankanwadi, J.)

agd