

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1594 OF 2021

JABER S/O JAMIL SHAIKH
VERSUS
THE STATE OF MAHARASHTRA

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Mr. J. R. Patil, Advocate for the applicant.
Mr. N. T. Bhagat, APP for the respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 19.01.2022

PER COURT :-

1. Heard learned Advocate Mr. J. R. Patil for the applicant and learned APP Mr. N. T. Bhagat for the respondent – State.
2. Applicant is apprehending his arrest in connection with Crime No.504 of 2021 dated 29.11.2021, registered with Ahmedpur Police Station, Dist. Latur, lodged by one Raufkhan Yusufkhan Pathan, for the offence punishable under Sections 353, 332, 504, 506 read with Section 34 of Indian Penal Code, 1860.
3. It has been submitted on behalf of applicant that applicant has been falsely implicated. In fact, it is the informant who had cut the electricity supply of the house of the applicant. Though he was in

arrears of electricity charges, the electricity ought not to have been cut. No such incident as narrated in the FIR had taken place. Even taking the case as it is, it does not amount to an offence punishable under Sections 353 and 332 of Indian Penal Code. Custodial interrogation of the applicant 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 First Information Report and statements of the witnesses recorded so far disclose specific role of the applicant. Informant is the public servant and knowing it well, still the applicant had used criminal force against him to deter him from doing his official duty. 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 is the technician attached to Maharashtra State Electricity Distribution Co. Ltd. at Ahmedpur. On 29.11.2021, from 6.00 a.m. to 2.00 p.m. the informant was on duty. He was accompanied by one Pramod Shivaji Kande. As per the orders of his superior Mr. Gude, at about 10.30 a.m., the informant had gone to the Mahsul Colony, behind Mondha for recovery of payment of arrears of electricity charges. The informant met applicant, who is

consumer bearing consumer No.617551151091 and asked him about the arrears of electricity charges. The applicant refused to pay the electricity charges and told the informant to bring his officer and abused the informant. The informant told the applicant not to abuse, at that time, the applicant caught hold throat of the informant and assaulted with wooden log, so also torn the pocket of uniform. It is further alleged that, the wife of applicant also came on the spot. The applicant and his wife threatened the informant that if he again come for recovery of arrears of electricity charges, they would kill him. Hence, the First Information Report has been lodged against the applicant and his wife.

6. The contentions in the First Information Report definitely give an impression that physical custody of the applicant may not be required for the purpose of investigation, as well the purpose would be served if attendance is given. The defence raised by the applicant need not be considered, at this stage, as he has to establish the same during the course of trial. However, it can certainly said that nobody should indulge in the act of deterring a public servant. The incidents of attacks on the employees of MSEDCL are increasing. Further, it will not be out of place to mention here that if we consider the statement of the informant recorded under Section 164 of Code of Criminal Procedure, then he states that he had called Pramod Shivaji Kande, who is also the

employee of MSEDCL, who was near distribution panel and if we consider the statement of Pramod Kande recorded by learned Judicial Magistrate First Class under Section 164 of the Code of Criminal Procedure, then he states that the informant had cut the electricity connection from the house of accused, as a result of which the accused had come out of the house and started abusing. It is then stated that when it was revealed by them in respect of the electricity meter of the accused, he was found committing theft of electricity. But it is to be noted that in the present case, they are not charging the applicant with the charges of theft of electricity. Therefore, even while granting protection of pre-arrest bail to the applicant, conditions deserves to be imposed on him including payment of costs. Hence, following order.

ORDER

- i) Application stands allowed.
- ii) The ad-interim protection, granted by this Court earlier to the applicant vide order dated 23.12.2021, is hereby confirmed and made absolute. In other words, in the event of arrest of the applicant – Jaber Jamil Shaikh in connection with Crime No.504 of 2021, registered with Ahmedpur Police Station, Dist. Latur, for the offence punishable under Sections 353, 332, 504, 506 read with Section 34 of Indian Penal Code, he be released on P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand only) with one or more

sureties in the 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 on 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.

vi) Applicant to deposit cost of Rs.5,000/- (Rupees Five Thousand only) with the High Court Legal Services Authority Sub-Committee, Aurangabad, within a period of one week.

[SMT. VIBHA KANKANWADI, J.]

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