

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1596 OF 2021

SAGAR RUSTUMRAO KALE
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. S. S. Deshmukh, Advocate for the applicant.
Mr. N. T. Bhagat, APP for the respondent – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 17.01.2022

Pronounced on : 01.02.2022

PER COURT :-

1. Heard learned Advocate Mr. S. S. Deshmukh 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.344 of 2021 registered with Hingoli (Town) Police Station Dist. Hingoli, lodged by one Rohit Ashokh Nakwal, for the offence punishable under Sections 353, 324, 323 read with Section 34 of Indian Penal Code.
3. It has been vehemently submitted on behalf of the applicant that the applicant has been falsely implicated. In fact, present applicant was not knowing the informant. No such incidence of using criminal force had taken place. Custodial interrogation of the applicant is not required for

the purpose of investigation. Further, even if for the sake of argument, it is accepted that there is some substance in the FIR, the applicant is repenting for the act and would compensate to the State or any other institution.

4. Per contra, the learned APP has strongly opposed the application, on the ground that the contents of the FIR 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 the applicant. He does not deserve pre-arrest bail.

5. Perusal of the FIR would show that the informant is a sweeper in the Government Hospital, Hingoli. On 13.11.2021, at about 11.40 p.m., when the informant was on night duty along with other officials i.e. Dr. Kendre, Sister Gore and Jawale in casualty department, at that time, Akshay Indoriya and Shivdas Indoriya, who were in injured condition, were brought to the hospital for treatment. Informant was making bandage to injured Akshay Indoriya. At that time, around 20 to 25 persons gathered there and, therefore, Dr. Kendre asked informant to drive the mob outside the hospital. When informant was trying to drive the mob outside the hospital, present applicant asked informant that he should first make the

bandage to injured Akshay Indoriya and also slapped informant and gave fist blow saying that why he was not making the bandage and due to the fist blow, bracelet of the applicant caused bleeding injury to the informant. The applicant and his two three associates assaulted informant and thrown the tray, scissor and other documents from the table of casualty department in the hospital and thereby caused obstruction into the public duty of the informant and other public servants in the hospital. Hence, the FIR has been lodged against the applicant and other two three persons.

6. Taking into consideration the facts of the case, the physical custody of the applicant may not be required for the purpose of investigation and the purpose would be served, if attendance is given. The defence raised by the applicant need not be considered, at this stage, as they have 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. Therefore, even while granting protection of pre-arrest bail to the applicant, conditions deserve to be imposed on him. Hence, following order.

ORDER

- I) Application stands allowed.
- II) The ad-interim protection, granted by this Court earlier to the applicant vide order dated 28.12.2021, is hereby confirmed and

made absolute. In other words, in the event of arrest of applicant – Sagar Rustumrao Kale, in connection with Crime No.344 of 2021 registered with Hingoli (Town) Police Station, Dist. Hingoli, for the offences punishable under Sections 353, 324 and 323 read with Section 34 of Indian Penal Code, he be released on P R. Bond of Rs.15,000/- with one surety in the like amount.

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

IV) He shall not indulge in any criminal activity.

V) The applicant to deposit amount of Rs.5,000/- to the High Court Legal Services, Sub Committee, Aurangabad within a period of one week.

[SMT. VIBHA KANKANWADI, J.]

scm