

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

933 ANTICIPATORY BAIL APPLICATION NO.1618 OF 2021

FIROZ HAKIM TADVI - PATHAN
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Murkute J.M.
APP for the respondent – State : Mr. S.B. Pulkundwar
...

CORAM : MANGESH S. PATIL, J.

DATE : 5 JULY 2022

PC :

This is a successive application for anticipatory bail moved after 1-1/2 years of rejection of earlier application by this court in Anticipatory Bail Application no. 4 of 2021 by the order dated 25-01-2021.

2. Learned advocate for the applicant submits that since rejection of the earlier application, the investigation has been concluded, the chargesheet has been filed. Though there is some role attributed to the applicant, in an episode which had taken place a month prior to the actual incident, the applicant is not involved in the incident which had taken place on 04-11-2020. It is only the applicant's sons who can be said to have abducted and assaulted the informant. The applicant cannot be attributed with either the knowledge or participation. In view of such peculiar state-of-affairs, the request to grant anticipatory bail may be reconsidered.

3. The learned APP, on instructions, submits that it is a matter of conspiracy. The FIR specifically reads about an earlier episode involving the applicant. The subsequent incident dated 04-11-2020 is nothing but a culmination of a conspiracy. None of the accused except the owner of the vehicle has been granted anticipatory bail. The applicant is a history sheeter. The applicant and his sons have been tampering with the witnesses. One such witness named Ashpaq has drawn his statement recorded under section 161 of the Code of Criminal Procedure. Considering the gravity of the crime and the afore-mentioned circumstances, the application be rejected.

4. I have carefully considered the rival submissions and perused the chargesheet.

5. As has been laid down in the matter of **G.R. Ananda Babu Vs. State of Tamil Nadu; 2021(1) CRIMES 135 (SC)**, once having rejected the application for anticipatory bail, the request can be reconsidered only in view of some material change in the circumstances. Mere filing of the chargesheet *per se* cannot be said to be change in the circumstances.

6. The fact remains that applicant's request for anticipatory bail was considered on merits and when this Court had expressed its disinclination to grant anticipatory bail, that he had withdrawn the application. If such is the state-of-affairs, it was imperative for the applicant to come out with some concrete material to demonstrate that

there has been some material change in the circumstances without which his request cannot be reconsidered.

7. Going by the chargesheet, there is nothing for me to reach to a conclusion that there is any material change in the circumstances.

8. The applicant's name appears in the FIR may be not in connection with the actual incident but an earlier episode which is alleged to be germane to the crime.

9. It is unthinkable that the applicant in spite of being father of the prime accused, is unaware about the episode. It is a crime where a pistol has been used, a vehicle has been hired and the informant was abducted and even shot at. It is specifically alleged that it was a crime committed by hatching a conspiracy which usually takes place in secrecy.

10. Apart from the above state-of-affairs, even there are specific and concrete allegations that the witnesses are being tampered with. Already one witness Ashpaq has resiled from his earlier statement. There is statement of informant - Wasim that it is because of the threats extended by the applicant and his sons that Ashpaq had withdrawn his statement.

11. The application is rejected.

[MANGESH S. PATIL]
JUDGE

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