

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1611 OF 2021

NAGNATH VISHWANATH ILAG

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. D.S. Patil, Advocate for the applicant

Mrs. V.N. Patil-Jadhav, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 25th FEBRUARY, 2022

PRONOUNCED ON : 31st MARCH, 2022

ORDER :

1 The applicant is apprehending his arrest in connection with Crime No.425/2021 dated 09.12.2021 registered with Jintur Police Station, Dist. Parbhani, for the offence punishable under Section 327, 323, 504 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. D.S. Patil for the applicant and learned APP Mrs. V.N. Patil-Jadhav 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 one Dnyaneshwar Vishnu Ilag on 09.12.2021 at about 20.51 hours in respect of an incident that had allegedly taken place around 7.30 p.m. on 01.12.2021. It shows that there is delay in lodging the First Information Report. The informant, who is 19 years old student, states that he along with some other boys were standing near pan stall at the time of the incident. There was birthday of their friend and therefore they were collecting amount. One Sandip Khushalrao Budhwant i.e. accused No.1 went there and started abusing the informant abruptly. There was quarrel between them and Sandip had assaulted him by kicks and fists. Thereafter, when informant started to proceed towards his house, accused No.1 had called his maternal uncle i.e. present applicant. The informant says that along with the present applicant one Suman Khushalrao Budhwant and Laxmibai Pote also came. Two ladies i.e. Suman and Laxmibai caught hold of the hands of the informant and then Sandip and present applicant by assaulting him by kicks and fists took out amount of Rs.35,000/- from his pocket. He also states that the incident is seen by one Gaju More. Informant went to Police Station, whereupon he was sent for medical examination. He went to Jintur Hospital and took treatment and after he felt better, he lodged the report on 09.12.2021.

4 Contents of the First Information Report itself shows that he was assaulted by kicks and fist blows. The injury would be naturally simple in nature, but still he had not gone to lodge the report immediately. Another fact that is required to be noted is that how he has not explained the source of amount of Rs.35,000/-, which he was allegedly carrying in his pocket. That explanation is not taken. There is a statement of one Avinash Narayan Ilag, who says that after it was decided that they would collect the amount for celebrating birthday of their friend, it was opposed by one Sandip, Santosh and Atish. It is then stated that the informant told Sandip and if he is not willing to give the amount he should leave the place and then Sandip told that as to why he should go from that place. It was the triggering point. This witness does not say that Dnyaneshwar i.e. the informant was carrying a considerable amount and it was taken by informant and his maternal uncle. Same is the case of Atish Ganeshrao Ilag. In his statement also he had stated that he has also refused to contribute the amount for celebration of the birthday. Therefore, taking into consideration the contents of the First Information Report the custodial interrogation of the applicant is not necessary.

5 Another fact which is to be noted is that on the basis of First Information Report lodged by Sandip, offence was registered against

informant Dnyaneshwar Ilag, Santosh Ilag and Raosaheb Ilag, under Section 324, 327, 354, 504, 506 read with Section 34 of the Indian Penal Code, however, that offence was registered on 08.12.2021 vide Crime No.424/2021. But then the present applicant had given complaint application on 07.12.2021 that he was assaulted as well as Sandip was assaulted by the informant Dnyaneshwar and his friends and according to him, First Information Report was not registered. It also appears that Sandip, who had received the injuries, had gone to Police Station on 01.12.2021 and he was also given catalogue (यादी) for medical examination. Why the police had not recorded his First Information Report immediately thereafter, is a question. It appears that from Jintur, Sandip was referred to Civil Hospital, Parbhani and he was admitted there from 01.12.2021 to 05.12.2021. This cross complaint is also required to be considered. This Court has granted interim protection to the applicant on 28.12.2021 and that protection deserves to be confirmed. Accordingly, it is confirmed. Hence, following order.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to

applicant vide order dated 28.12.2021, 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. **Nagnath Vishwanath Ilag**, in connection with Crime No.425/2021 dated 09.12.2021 registered with Jintur Police Station, Dist. Parbhani, for the offence punishable under Section 327, 323, 504 read with Section 34 of the Indian Penal Code, 1860, he be released on P.R. of Rs.20,000/- (Rupees Twenty Thousand only) with one surety of like amount.

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

4 He should cooperate with the investigation.

(**Smt. Vibha Kankanwadi, J.)**

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