

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

33 ANTICIPATORY BAIL APPLICATION NO.1628 OF 2021

ANKUSH RAGHOBAN JANJIRE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. A.S. Gandhi, Advocate for the applicant
Mr. N.T. Bhagat, APP for the respondent Nos.1 and 2
Mr. S.V. Suryawanshi, Advocate assist to APP

...

CORAM : SMT. VIBHA KANKANWADI, J.
DATE : 17th JANUARY, 2022

PER COURT :

1 Applicant is apprehending his arrest in connection with Crime No.734/2021 dated 01.12.2021 registered with Karjat Police Station, Dist. Ahmednagar, for the offense punishable under Section 324, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate for the applicant as well as learned APP well assisted by learned Advocate Mr. S.V. Suryawanshi for the informant.

3 Learned APP has strongly opposing the application on the ground that the Medico Legal Certificate of the informant shows that he had

sustained injuries to the head, both the buttocks, hand, thigh, back and right forearm i.e. in all six injuries. It found out that there was fracture to his first metacarpal. The nature of the injuries is stated to be grievous. He also submits that the regular bail application filed by co-accused Atmaram Mohan Janjire has been rejected by this Court. Everything was done by the other three accused persons at the instigation of the present applicant and, therefore, taking into consideration the reasons mentioned in the First Information Report, the physical custody of the applicant is necessary for the purpose of investigation.

4 The FIR has been lodged by one Dattatraya Potre. He states that the present applicant is his neighbouring land owner and the present applicant was harassing him since last about six months prior to the First Information Report, on the ground that the informant should sale his land to the applicant. It is then stated that the present applicant used to instigate one Atmaram Janjire so that he would assault the informant and his son and also used to say that he would get the relief from Court. But as regards this he says that he had come to know about it about six months ago. The informant then states about the incident that had allegedly taken place at about 7.30 a.m. on 24.11.2021. He says that when he was passing near a streamlet he was called by Atmaram Mohan Janjire, Govardhan Atmaram

Janjire and Laxman Atmaram Janjire. They told the informant that he should sale his land to present applicant. He was abused and assaulted by kicks and fist blows. Thereafter, Atmaram had given blow of iron rod on the head of the informant, however, it was stopped by the informant on his left hand, causing him severe injury to the left hand. Thereafter, Lakhan Janjire had stabbed on his right thigh from back side with the help of knife. Govardhan Janjire then assaulted him by cable pipe. He was threatened with the gun. He then says that thereafter he came near one Amit Grocery shop on his motorcycle. But again he was assaulted and abused by Atmaram and Govardhan with the help of iron rod and cable pipe. They allegedly told him that he is saved today, however, his son had not met them, otherwise he would have also been assaulted. The relatives of the informant had then taken him on motorcycle to Police Station. Thereafter he was referred to Government Hospital. After taking primary treatment he was then referred to Civil Hospital, Ahmednagar and thereafter he shifted to Kamalnayan Bajaj Hospital for further treatment. He then says that on the instigation of the present applicant he was assaulted by the three persons.

5 Learned APP on the assistance of learned Advocate Mr. S.V. Suryawanshi submits that the police have not invoked Section 329 of the Indian Penal Code and the offence that has been committed by the present

applicant is serious and, therefore, physical custody is required.

6 At the outset, it is to be noted that the allegations against the present applicant are that he had instigated the other three accused persons. Admittedly, it appears that no complaint was lodged within the period of six months prior to the First Information Report, when the informant had come to know about such kind of instigation by the applicant and for the alleged harassment by the three others. Asking the applicant to sale his land to him by the applicant *per se* may not amount to any offence, but the First Information Report states that it was insistence coupled with alleged harassment. Now, as regards the alleged harassment is concerned, the presence of the applicant has not been stated. On the statement of the co-accused it is then stated by the present applicant that it was at the instigation of the applicant. Another aspect to be noted is that the applicant was not made as an accused in the First Information Report that was lodged, but then a complaint application appears to read with o have been given by the present applicant to police on 07.12.2021 and then he appears to have been added as accused. Further, initially the offence was registered under Section 324, 323, 504, 506 read with Section 34 of the Indian Penal Code and it appears that later on Section 326 of the Indian Penal Code has been added. No doubt, the injuries those have been suffered by the informant are serious in nature, but

taking into consideration the allegations against the present applicant that everything was allegedly done at the instigation of the applicant, it can be said that the physical custody of the applicant is not required for the purpose of investigation. As regards the Section 329 of the Indian Penal Code is concerned, at this stage, it is not invoked by the police and unless the evidence is gathered and whether asking the informant to execute sale deed in favour of the applicant and alleged insistence may be after the incident of assault whether amounts to extortion, is required to be seen. It may be added later on also. But for that purpose also the physical custody of the applicant is not required. The applicant has permanent place of abode and at this stage, no criminal antecedents have been shown. The only thing that appears that Section 109 of the Indian Penal Code has been added by making the applicant accused in this case. The interim protection that was granted by this Court on 04.01.2022 deserves to be confirmed, however, one more condition deserves to be added to the relief. In view of the fact that the informant had sustained grievous injuries and it appears that for his treatment he was required to incur amount of Rs.1,02,600/-, the hospitalization appears to be for 13 days. The receipt for the same has been attached by the informant. With these observations following order is passed.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicant vide order dated 04.01.2022, 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. Ankush Raghoba Janjire, in connection with Crime No.734/2021 dated 01.12.2021 registered with Karjat Police Station, Dist. Ahmednagar, for the offense punishable under Section 324, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860, he be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

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 and shall attend the Karjat Police Station, Dist. Ahmednagar on every Thursday between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

5 He shall not enter the jurisdiction of village Pimpalwadi, Tq. Karjat 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 as well as to the Trial Court.

(Smt. Vibha Kankanwadi, J.)

agd