

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3060 OF 2022

Niranjan Prakash Bhumkar ..Applicant
Versus
State of Maharashtra ..Respondent

WITH
INTERIM APPLICATION STAMP NO.19523 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.3060 OF 2022

Anil Prabhu Jirange ..Intervenor

IN THE MATTER BETWEEN

Niranjan Prakash Bhumkar ..Applicant
Versus
State of Maharashtra ..Respondent

Mr. Rajendra Deshmukh, Senior Advocate i/by Priyal Sarda, for the Applicant.

Mr. A. A. Palkar, APP for the Respondent.

Mr. D. J. Shejul, for the Intervenor in Interim Application.

Mr. N. A. Kale, Police Constable, Vairag Police Station – present.

CORAM : NITIN W. SAMBRE, J.

DATE : 18th NOVEMBER, 2022

PC.

1. The applicant is seeking pre-arrest bail in Crime No.317 of 2022 registered with Vairag Police Station for the offense punishable under Sections, 307, 326, 323, 143, 147, 148, 149 and

109 of IPC and Section 135 of Maharashtra Police Act.

2. The case of the prosecution is, the group led by the applicant and complainant were having differences over the fishing right given by the Commissioner of Fisheries on the same fishing tank.

3. Under the pretext of settling differences on the said issue, complainant alleged that the applicant called the complainant, his brother, son and nephew in his office and with his supporters assaulted with deadly weapons, like sword, rod and sticks etc. to the victim. As such, offence in question.

4. Mr. Rajendra Deshmukh, learned senior counsel for the applicant would urge that at the behest of applicant FIR being Crime No.318 of 2022 is registered which is arising out of the very same incident. According to him, in the said crime which is registered at the behest of group of the applicant, eight persons are booked, out of which some are released on regular and anticipatory bail. He would urge that in an offence against the group led by the applicant out of eight accused persons of which accused Nos.1, 3, 5 to 7 are already released on regular bail, whereas prayer of accused No.2 and accused No.8 i.e. present applicant is pending for grant of pre-arrest bail. He would further urge that role attributed to the present applicant is at par with co-accused/Maruti, who is ordered to be released by this Court on 29th September, 2022. According to

him, the FIR depicts that similar role is attributed to the applicant as that of co-accused/Maruti in the crime against him. Mr. Rajendra Deshmukh, learned senior counsel then would invite attention of this Court to the fact that pursuant to the ad-interim protection ordered by this Court on 26th August, 2022, the applicant was arrested and released on bail. He would submit that investigation in the matter is already over as charge-sheet is already filed in the Trial Court. During such period i.e. pendency of the earlier application he has co-operated with the Investigating Agency and as such, he would urge that the applicant deserves to be released.

5. The prayer is opposed by the learned APP, who is assisted by the counsel for the complainant.

6. It appears that the complaint came to be lodged after a delay of one day, as the complainant was hospitalized in Government/Civil Hospital. The place of the incident i.e. commission of offence is home/office of the present applicant, wherein the complainant, his brother, son – Shubham and nephew - Pradeep were assaulted by sword, rod on the head and life threatening grievous injuries were caused. There is enough material on record to infer not only *prima-facie* involvement of the applicant in the crime in question, as the scene of the crime is very home of the applicant but also the eye witnesses who have specifically stated that the applicant was involved in the crime with aggravated criminal act in the offence in question. The applicant has not only

instigated the co-accused but also provided weapons in the crime in question. Even if the applicant was arrested on earlier occasion, the fact remains that he has not co-operated in the investigation and rather the other co-accused till this date is absconding.

7. There is one more serious facet to the matter during pendency of earlier application, when the applicant was granted ad-interim protection by this Court, the then Investigating Officer was subsequently transferred. Thereafter when the applicant withdrew application for release from this Court, again moved before the Sessions Court, in which the then Investigating Officer, an API who was already transferred came to the rescue of the applicant and appears to have given supporting statement before the Sessions Court for release of the applicant. The said conduct of the Investigating Officer going out of way of public duty and supporting the accused, sufficiently establishes that the applicant has tried to influence the investigation. That being so, in my opinion, no case for bail or case that of parity with the co-accused/Maruti is made out. The bail was granted to the accused/Maruti in another offence, as he was assaulted by the group led by the applicant by calling him for settlement in the house of present applicant.

8. As such, the present application stands rejected.

9. In view of rejection of bail application, interim application also stands disposed of.

10. The copy of the order dated 20th October, 2022 delivered in Criminal Bail Application No.834 of 2022 (Niranjan Prakash Bhumkar Vs. State) along with present order of this Court be placed before the Superintendent of Police, Solapur, so also the Range Inspector General of Police, Solapur, who is directed to submit a report on the basis of the observations made hereinabove on the conduct of the then Investigating Officer based on the observations of the Sessions Court in paragraph 9 of the order dated 20th October, 2022.

11. Let the aforesaid report be submitted within a period of eight weeks from today by the Range Inspector General of Police.

12. Learned APP is directed to communicate this order to the Range Inspector General of Police, so also the Superintendent of Police, Solapur.

[NITIN W. SAMBRE, J.]