

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 15 OF 2022
WITH
INTERIM APPLICATION NO. 117 OF 2022

Mansing Vijay Bondre ... Applicant
V/s.
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO. 117 OF 2022

Abhishek Chandrakant alias Subhash ... Applicant
Bondre
V/s.
The State of Maharashtra ... Respondent

Mr. Aniket Nikam I.by Mr. Amit Icham for the applicants.
Ms.A.S. Pai- PP for the State.
Mr. Kunal Bhangе – Intervenor.

CORAM : C.V.BHADANG, J

DATED : 12TH JANUARY 2022.

(THROUGH VIDEO CONFERENCING)

P.C. :

1. By this application, the applicant, apprehending his arrest in connection with investigation of Crime No. 601 of 2021 of police station Juna Rajwada, Kolhapur under section 307 and 506 of Indian Penal Code and under Section 3/ 25, 5/27 of Arms Act, is seeking

Anticipatory Bail.

2. The prosecution case, as disclosed from the complaint lodged by Abhishek Bondre is that there is a dispute between the family of the informant and that of the applicant. The informant is the cousin brother of the applicant. The dispute is on account of educational institution which was established by the grandfather of the informant and the applicant as also some landed property.

3. On 13th December 2021 at about 12.30 a.m. the applicant is alleged to have gone in a Fortuner Car near the house of the applicant. It is the material case that when the informant came out from the rear gate of the compound, the applicant threatened the informant with life and thereafter fired a shot from a revolver which missed the informant. Thereafter, the informant alongwith his mother and wife confined themselves to the house fearing danger to their life and limb.

4. It appears that there was a video of the firing recorded which according to the informant was uploaded on the social media, by the applicant, which has subsequently been deleted. The informant gathered courage and lodged the complaint with Juna Rajwada Police Station at about 4.00 p.m. on 14th December 2021, on the basis of which the aforesaid offence came to be registered which is under investigation.

5. The learned Sessions judge by an order dated 23rd

December 2021 has refused to grant anticipatory bail application to the applicant.

6. I have heard, Mr. Nikam, the learned counsel for the applicant and Ms. Pai, learned PP for the State. I have also heard Mr. Kunal Bhange, the learned counsel for the informant/intervenor.

7. It is submitted by the learned counsel for the applicant that the applicant had fired certain shots from the revolver of the co-accused, as a matter of entertainment, which would be evident from the fact that the video recording of the said firing was made with a background music.

8. It is submitted that, had the applicant made an attempt on the life of the informant, the incident of firing could not have been recorded in a video which was said to be circulated on the social media. The learned counsel strenuously urged that on the basis of the CDR of the informant and his mother, it would be evident that the informant or his family members were not in their house on the date and time of alleged incident. The learned counsel fairly submitted that although the act of the applicant firing the shots in the air as a matter of entertainment cannot be approved, it is submitted that there was no incident of any attempt on the life of the informant.

9. It is submitted that the informant is taking undue advantage of the said incident being recorded and put on the social media to implicate the applicant on account of family dispute between

them. He submitted that the video recording of the incident has been handed over to the police and there is no further recovery or interrogation which is required to be made. He submitted that the applicant is ready and willing to join the investigation and co-operate with the investigating agency and will undertake to stay outside Kolhapur City to obviate any incident or any attempt to influence, the prosecution witnesses or the evidence.

10. The learned counsel submitted that there is a delay in lodging of the FIR inasmuch as the incident had allegedly happened in the midnight intervening between 13th and 14th December 2021, however, the complaint came to be lodged at about 4.00.m. on 14th December 2021, for which there is no explanation. It is submitted that the informant could have very much dialed the police station, informing about incident which is not done. This in the submission of the learned counsel shows that the FIR was premeditated in order to falsely implicate the applicant.

11. The learned PP and the learned counsel for the informant have submitted that the incident is of a serious nature having wider repercussions, inasmuch as firing was done in the dead of night in a residential locality. It is submitted that the hard disk of the CCTV footage installed by the applicant is shown to be removed and only a copy of the recording was handed over to the police in a pen drive which shows that there was tampering of the evidence.

12. It is submitted that learned Session Judge has examined

the matter in detail and has found that there is a possibility of the revolver being used in a horizontal direction and not in a vertical manner by the applicant for entertainment purpose as claimed on behalf of the applicant.

13. It is submitted that the applicant has made a misleading statement, before the learned Sessions Judge, that there are no criminal antecedents to his discredit. However, there are two offences registered against the applicant one out of which is a similar offence under section 307 of Indian Penal Code. It is submitted that this itself disentitles the applicant to any discretionary relief of pre-arrest bail.

14. I have carefully considered the rival circumstances and the submission made. *Prima facie*, it appears that the fact of such firing being made in the dead of the night, in a residential locality, has not been disputed. The only contention is that the firing was made by way of an entertainment of which a video recording is made with a background music. Such a conduct of firing even assuming for entertainment purpose, cannot be countenanced or approved by any standards.

15. The learned PP is right, in submitting that even assuming that any such firing was made for entertainment purpose, it would be in breach of licence granted for holding the fire arm.

16. Be that as it may, at this stage, there are statements of the informant, his mother, wife and maid servant of the informant, to show

that the firing was aimed at the informant. Although it is submitted that all these witnesses are related or interested, it can *prima facie* be seen that at the late hours in the night, it is only the family members or maid in the house, whose presence can be expected on the spot.

17. The learned Sessions Judge after considering the CCTV footage had found that there is a possibility of two incidents one at 12.30a.m and other at 2.00a.m which need to be investigated including whether there is one fire arm or two fire arms used.

18. The applicant had made a statement before the learned Sessions Judge in the application that there are no criminal antecedents. However, the learned Sessions Judge had noticed that there is RCC No. 362 of 2016 in which the applicant is a co-accused under section 406, 407, 467, 468, 471, 474, 420 and 201 read with 34 of Indian Penal Code pending before the Additional Chief Judicial Magistrate at Kolhapur. The applicant is also an accused in Sessions Case No. 142 of 2019 under section 307 of Indian Penal Code.

19. At this stage regard it is necessary to note that there are allegations that the hard disk of the CCTV footage was removed and only a copy of the recording was furnished to the police in a pen-drive.

20. Considering the overall circumstances, I do not find that this is a fit case where the applicant can be granted pre-arrest bail. The proper investigation of the incident is the paramount consideration for which custodial interrogation of the applicant is necessary.

21. In the result the criminal application is dismissed. Pending application for intervention is also disposed of.

(C.V. BHADANG, J)