

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.325 OF 2022

Sudhakar Manivel Harijan @ Kattiya .. Applicant

Versus

State of Maharashtra .. Respondent

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Ms.Afreen Shaikh for the Applicant.

Ms.S.S.Kaushik, A.P.P. for the State/Respondent.

PSI Shri Kamlesh Patil attached to Sewree Police Station present.

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CORAM: BHARATI DANGRE, J.

DATED : 07th MARCH, 2022

P.C:-

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The applicant is apprehending his arrest in C.R.No.659 of 2021 registered with Sewari Police Station on a complaint filed by one Sunil Gundkar, making a reference to an incident dated 01/08/2021 when he was intercepted by two persons, who were driving a white colour scooter. The version of the complainant is that while they were abusing him, they called a third person, who was their friend and he was pulled out of his vehicle and assaulted. The two persons were referring to each other by name as 'Badal' and 'Badshah' and it is alleged that Badshah was heavily drunk and he assaulted the complainant.

The role attributed to the third person is picking up two notes of Rs.500/- from his rear pocket, and snatching the key of his vehicle.

The applicant i.e. the third person is described by his approximate age, colour and the clothes he was wearing and it is the case of the prosecution that the applicant is this third person.

3. On completion of investigation, charge-sheet came to be filed against the two accused persons, Badshah and Badal, who are arrested and released on bail. The charge-sheet invokes Section 394 read with Section 34 of the IPC and the applicant is shown as absconding accused.

When the learned APP is asked about the basis on which the applicant is shown as a wanted accused in the charge-sheet, she submits that it is on the basis of the statement of the co-accused, who has roped him.

4. The charge against the two accused persons, who are arrested and released on bail and the applicant, who seeks protection from his arrest is under Section 394 read with Section 34 of the IPC. Perusal of Section 394 would clearly reveal that it contemplates robbery by causing hurt to any person and the offence is punishable with life imprisonment or with rigorous imprisonment for a term which may extend to ten years. The term 'hurt' in the said Section will have to assign the same meaning as in Section 319. Perusal of the medical report of the complainant, who alleged to have been

assaulted by the accused persons, was immediately examined. The injury certificate from J.J.Group of Hospital would reveal blunt trauma and swelling. The injuries are referred to as simple injuries. The amount which has been robbed from the complainant is a sum of Rs.1,000/-.

In the wake of the above, I do not think that the custodial interrogation of the applicant is warranted, but in order to complete the investigation of the crime, as against the present applicant, he shall co-operate with the Investigating Officer by attending the police station, in the following manner.

: ORDER :

- (a) The application is allowed.
- (b) In the event of arrest in C.R.No.659 of 2021 registered with Sewari Police Station, applicant-Sudhakar Manivel Harijan @ Kattiya shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall report to the concerned police station on 15th and 23rd March, 2022 between 10.00 a.m. and 2.00 p.m. and, thereafter, as and when directed.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with the prosecution evidence.

(SMT. BHARATI DANGRE, J.)