

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.388 OF 2023

Shrikrushna Rajendra Kolhe

Applicant

Versus

The State of Maharashtra

Respondent

Mr. S. S. Thombre, Advocate for the applicant.

Mr. S. N. Morampalle, APP for the State.

Mr. D B. Kale, Advocate for the informant.

CORAM : R. M. JOSHI, J.
RESERVED ON : 28th JUNE, 2023.
PRONOUNCED ON : 4th JULY, 2023.

PER COURT :

1. Applicant apprehends arrest in connection with Crime no. 90/2023 registered with Kallam Police Station, Tq. Kallam, Dist. Osmanabad, for the offences punishable under Sections 143, 149, 307, 323, 506 of the Indian Penal Code.

2. Pandharinath Kolhe, while admitted in Government Hospital, Kallamb, gave report to the police that on 19th February, 2023, at about 6.15 am, while he was proceeding with his friend Mahesh to village Hawargaon, applicant came in his Safari vehicle

bearing No. MH 14 EC 5599 and obstructed him and accused him that because of the complaint lodged by his brother in respect of encroachment as well as rationing shop, the licence of the paternal uncle of the applicant is cancelled. By saying so, applicant slapped him and threatened him to kill. Informant therefore started proceeding towards Kallamb Police Station. At Hasegaon he stopped his motorcycle and called his brother informing about the incident. It is alleged that near crematory at Hasegaon, applicant deliberately drove his vehicle and dashed his motorcycle from behind in order to kill him.

3. Learned counsel for the applicant states that there are disputes between the parties and owing to the same false report has been lodged against the applicant. It is further contended that if at all the motorcycle driven by informant and his friend Mahesh was a pillion rider was given dash, question arises as to why there is not a single injury caused to Mahesh. It is submitted that there is recovery to be done at the instant of present applicant and hence, he is entitled for anticipatory bail.

4. Learned APP and learned counsel for the informant opposed the application by stating that there is specific allegation against the present applicant in the First Information Report as to the manner in which he had abused, assaulted, threatened and finally attempted to kill the informant. In this regard reference is made to the CDR showing presence of applicant in the same village. It is submitted that offence is serious in nature and hence custodial interrogation of the applicant is necessary.

5. No doubt, it is stated in the First Information Report that at the relevant time, informant was with his friend and they were proceeding on motorcycle towards Kallamb police station. If the allegation of the informant is accepted that the applicant gave forceful dash by four wheeler to his motorcycle, the question arises as to why there is no single injury caused to Mahesh who was pillion rider on the same motorcycle. It does not stand to any reason that if forceful dash is given to the motorcycle, informant sustained injuries but the pillion rider escapes without even a scratch. Apart from this, perusal of statement of Mahesh also does not show that he sustained any injury in the said incident. Merely because motorcycle of the informant shows some damage from backside, it cannot be presumed

that there was dash given to his motorcycle by the vehicle of the applicant. Panchanama of recovery of vehicle of applicant does not show any damage caused to it. On the contrary, it shows that the alleged vehicle used in the crime is already seized by the police and as such nothing is to be recovered at his instance. Applicant is resident of the village where his location is found from CDR. This evidence will not be sufficient to connect the applicant with the crime in question. Having regard to the previous dispute between the parties and since there is no material evidence to connect applicant with this crime, he is entitled for anticipatory bail. Hence, application is allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb