

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 413 OF 2023

Bharat Harishchanra Gadekar

Applicant

Versus

State of Maharashtra

Respondent

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

Mr. V. S. Badakh, APP for the State.

CORAM : R. M. JOSHI, J.

DATE : 7th JUNE, 2023.

PER COURT :

1. Applicant is apprehending arrest in connection with Crime No. 1147/2022 registered with Newasa Police Station, Tq. Newasa, Dist. Ahmednagar, for offences punishable under Sections 384, 385, 386 of the Indian Penal Code.

2. It is alleged by the informant that on 10th December, 2022, at about 9.00 pm, applicant came to the shop of the informant and demanded money from the son of the informant and since the amount was not made over to him, his son was abused and assaulted. Another incident allegedly occurred on 13th December, 2022 at about 4.30 pm, when applicant had demanded Rs.200/- per

day from the informant and his son for conducting liquor business by them. It is alleged that they were threatened on the point of knife.

3. Learned counsel for the applicant states that there is delay in lodging First Information Report and the same has been lodged only to ensure that no action is taken against the informant and others in respect of the incident occurred on 13th December, 2022 in which, the applicant was mercilessly assaulted. It is further submitted that immediate First Information Report could not be lodged as the applicant had received serious injuries and was admitted in various hospital and finally was treated in Sassoon Hospital, Pune. It is contended that the Sessions Court has rejected the application only on the ground of delay caused in lodging First Information Report.

4. Learned APP opposed the application by stating that the statement of informant is supported by statements of the witnesses.

5. In order to ascertain the claim of applicant that he having sustained assault at the hands of the informant and others, papers pertaining to First Information Report No. 1166/2022 were

called. Perusal of the said papers show that though information in respect of the said incident was given on 19th December, 2022, there is injury certificate on record which indicates that applicant had received as many as 9 injuries out of which 6 are CLWs and 2 are grievous injuries. In view of this fact, it was not expected from the applicant to lodge immediate report of the said incident.

6. There is no explanation in the First Information Report in Crime No. 1147/2022 as to why information of the incident which has occurred on 13th December, 2022 at about 4.30 pm was not given immediately. The First Information Report is recorded at 2.00 pm on 14th December, 2022. Thus, there is substance in the contention of learned counsel for the applicant that this First Information Report has been lodged only in order to protect the informant and others from any report given by the present applicant against them. In view of this, there is reason to believe that the contents of the First Information Report are concocted. Having regard to the nature of allegations made in the complaint, custodial interrogation of the applicant is not necessary. Appropriate directions to to him to appear before the Investigating Officer would be sufficient for the purpose of further investigation, if any.

7. In view of above discussion, application stands allowed.

Hence the following order :

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of applicant in connection with Crime No. 1147/2022 registered with Newasa Police Station, Tq. Newasa, Dist. Ahmednagar, for the offences punishable under Sections 384, 385, 386 of the Indian Penal Code, he be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) with one solvent surety in the like amount.
- (iii) He shall attend the concerned police station as and when called by the Investigating Officer.
- (iv) He shall not contact the witnesses directly or indirectly.
- (v) He shall not interfere with the evidence in any manner whatsoever.
- (vi) He is further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI)
Judge