

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 801 OF 2023

Machindra s/o Karbhari Wanve

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. R. G. Hange, Advocate for the applicant.

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

Mr. V. S. Wakale, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 23rd JUNE, 2023.

PER COURT :

1. learned counsel for the informant states that though he had received instructions to assist learned APP, he has neither received Vakalatnama nor further instructions as per the query raised by this Court.

2. Applicant apprehends arrest in connection with Crime No. 116/2023 registered with Ashti Police Station, Dist. Beed, for the offences punishable under Sections 307, 327, 143, 147, 149, 323, 504, 506 of the Indian Penal Code.

3. Informant reported incident dated 24th March, 2023 on 26th March, 2023, by stating that in front of the office of Sub-Registrar, a four wheeler came and dashed him. He alleged that the said four wheeler was driven by Namdev Jadhavar and present applicant and others were occupying the said vehicle. He further states that thereafter co-accused dashed their motorcycle on him and therefore he fell down. It is alleged that thereafter he was assaulted by the accused. Specific allegation is made that present applicant assaulted him with iron rod on his forehead.

4. Learned counsel for the applicant states that there are previous disputes between the parties and the informant was convicted on the basis of offence registered by the present applicant. He submits that delay caused in lodging First Information Report coupled with the previous dispute between the parties, there is reason to believe that this is a case of false implication.

5. Learned APP states that the informant sustained injuries and was admitted in hospital and therefore, these circumstances are sufficient to explain the delay. He further places reliance on the statement of one witness who claims that he was accompanying the

informant at the time of occurrence of the incident in question. Reference is also made to the injury certificate indicating that in the said incident of assault, informant sustained injuries to his forehead and lower limb.

6. Applicant has placed on record prima facie material to indicate that there were disputes between him and the informant. In the light of this fact, delay caused in lodging First Information Report assumes importance. Informant never claims that he was accompanying by any person and hence statement of witness recorded on 4th April, 2023, to the extent that he was accompanying the informant, cannot be accepted at this stage. As regards allegation of causing injury with iron rod to the informant is concerned, as per his own contention, informant was given dash by motorcycle driven by co-accused. The possibility of causing of said injury on account of vehicular accident cannot be ruled out. It is pertinent to note that the incident in question has occurred in front of the office of Sub-Registrar and hence it is impossible that the said incident is not witnessed by any person. Perusal of investigation papers does not show that a statement of any independent person is recorded by the Investigating Officer. This creates doubt about

occurrence of the incident as claimed by the informant in the First Information Report.

7. Having regard to these facts, liberty of the applicant deserves to be protected. Appropriate direction to him to appear before the Investigating Officer and co-operate in the investigation will be sufficient for further effective investigation.

8. Hence, application stands allowed in terms of interim order.

(R. M. JOSHI)
Judge

dyb