

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

950 ANTICIPATORY BAIL APPLICATION NO.863 OF 2023
WITH APPLN/1996/2023 IN ABA/863/2023

ANIL PANDURANG GUNJAL
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Satej S. Jadhav
APP for Respondent – State : Mrs. G.L. Deshpande
Advocate for Assist to PP : Mr. S.S. Dixit

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CORAM : R. M. JOSHI, J.
DATE : JULY 19, 2023

PER COURT :

. Applicant is apprehending arrest in connection with Crime No.345 of 2023 registered with Sangamner City Police Station, Tal. Sangamner, Dist. Ahmednagar for the offences punishable under Sections 395, 323, 504, 506, 507 of the Indian Penal Code.

2. Informant is an advocate who claims that an incident of accident occurred on 30.04.2023 at 11:00 a.m, while he was going to Sangamner from his village on his motorcycle, one Bolloro car coming from opposite direction in an attempt to overtake tractor came in front of his motorcycle and driver of bolloro lost control over the

steering and dashed to tractors trolley. He further states that thereafter applicant got down from bolloro and had slapped and abused him. He also refers to an incident occurred on 01.05.2023 in which he was threatened with dire consequences by applicant over phone. Finally incident occurred on 02.05.2023 at 02.30 p.m. when informant was proceeding towards a typing shop and at that time a car driven by present applicant tried to run over him. It is contended that he could save himself from dash and went to other side of the road. At that time 5 to 6 persons and applicant rushed on his person and applicant caught hold of him and ring from right finger of informant was removed.

3. Learned counsel for applicant states that there was dispute between applicant and informant over the issue of occurrence of accident in which the vehicle of applicant was damaged. It is contended that informant is a lawyer, however there is a delay in lodging FIR in respect of incident occurred at 2:30 p.m. the report is lodged at 08:00 p.m. Thus, according to him, possibility of false implication of applicant in the present crime cannot be ruled out.

4. Learned APP and learned counsel for informant opposed

application by contending that there are statements of advocates who had witnessed the said incident. As far as non-recording of statements of independent persons is concerned, it is contention of learned counsel for informant that applicant is politically influential person and since he hails from same village, no one has come forward to give statement against him. It is also sought to be argued that statements of the advocates cannot be discarded.

5. As recorded earlier, informant himself is a lawyer. However, he does not report incident occurred on 30.04.2023 and 01.05.2023 to the police. As far as incident occurred on 02.05.2023 is concerned, the alleged incident has occurred at 02:30 p.m., whereas the report is lodged after 6 hrs i.e. after 08:00 p.m. There is no explanation given by informant about delay caused in lodging said report. Even if it is accepted that applicant is an influential person in village, if informant was accompanied by number of lawyers it does not stand to any reason as to why he could not go to concerned police station and lodge report against applicant immediately. The delay in lodging FIR assumes importance in view of disputes between parties over the damage caused to vehicle on account of accident.

6. FIR itself clearly demonstrates that incident in question has occurred just in front of Court. Thus, it is not possible to accept submission that only lawyers were present at spot and non else was present. Merely because lawyers make statements in favour of applicant, more particularity when there are disputes between applicant and informant it was incumbent on the part of investigating agency to record statements of independent witnesses, who were available at the spot. There is nothing to indicate from investigation papers that any attempt was even made to record statement of any independent witness and he has refused to make any statement with regard to occurrence of incident. In such circumstances, possibility of false implication in the present crime of applicant cannot be ruled out. Hence, liberty of applicant deserves to be protected. Hence, following order:

ORDER

(i) Application is allowed in terms of interim relief dated 28.06.2023, except condition no.2 which is modified as under:

(a) Applicant is directed to attend concerned police station once in a week till filing of charge-sheet. For the purpose of recovery, if any, applicant shall be deemed to be in police custody.

(b) Applicant is further directed not to contact informant in any manner whatsoever and any such attempt would result into cancellation of bail.

[R. M. JOSHI]
JUDGE

GGP