

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1110 OF 2023

Appa Vitthal Maske

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. S. E. Shekade, Advocate for the applicant.

Mrs. R. P. Gour, APP for the State.

CORAM : R. M. JOSHI, J.

DATE : 2nd AUGUST, 2023.

PER COURT :

1. Applicant apprehends arrest in connection with Crime No. 0317/2023 registered with Shivajinagar Police Station, Dist. Beed, for the offence punishable under Sections 327, 323, 504, 506 of Indian Penal Code.

2. Informant reported incident dated 12th June, 2023, occurred at 8.00 pm when he had been to Mauli lawns to attend marriage along with his family members. After the marriage was over, he was about to leave. Present applicant came to the spot and tried to strangle him. He also abused and assaulted him with fists blows. There is allegation of causing assault on him with stone.

It is further stated that the applicant has snatched gold ornaments i.e. gold ring and two lockets possessed by the informant.

3. Learned counsel for the applicant states that the allegations made against the applicant are not believable as the applicant had lent amount of Rs. 3,00,000/- to the informant in the year 2020. in order to support said submission, he placed reliance on the photocopy of the said agreement. It is further stated that there is delay in lodging First Information Report and considering said delay, false implication of the applicant is not ruled out.

4. Learned APP opposed the application by referring to the investigation papers wherein statement of one independent witness is recorded who has supported the allegations made by informant in the First Information Report. It is also pointed out that the informant had sustained two injuries which corroborate his allegation against the present applicant. With regard to the gold ornaments being possessed by the informant, receipts issued by the jeweller are placed on record. Thus, it is the contention of learned APP that this could be a case of an attempt to recover the unpaid loan out of frustration.

5. No doubt, there is no inordinate delay in lodging First Information Report. The incident in question has occurred at about 8.00 pm on 12th June, 2023 whereas report is lodged on 13th June, 2023 at around 1.55 pm. There is nothing on record to indicate that any serious injury was sustained by the informant which could have prevented him from approaching concerned police station immediately. Applicant has placed on record agreement between him and informant which indicates that in July 2020 a sum of Rs. 3,00,000/- was lent by him to the informant. There is nothing on record to show that applicant has ever indulged into any such offence and infact he has clean criminal record. Though statement of independent witness who is not relative of the informant is recorded, he is the one who had accompanied the informant to the marriage. This indicates that he is close relative of the informant. It is difficult to digest that the incident in question has occurred just outside the place of marriage and no other witness comes forward to confirm occurrence of the incident in the manner in which the informant has reported. Having regard to these facts, this is a fit case to protect liberty of the applicant.

6. Applicant has already attended the concerned police station. There is nothing to show that he has misused his liberty. He is not likely to flee. Hence, application is allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb