

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.1260 OF 2023

Tushar Raghunath Autade

...Applicant

Versus

The State Of Maharashtra

...Respondent

Mr. B.P. Pande, Advocate for the applicant.

Mr. S.W. Munde, APP for respondent-State.

...

CORAM: R.M. JOSHI, J

DATE : OCTOBER 31, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 105 of 2023 registered with Phulambri Police Station, Dist. Aurangabad for the offences punishable under Section 395 of the Indian Penal Code and Section 3 and 25 of the Arms Act.

2. First Information Report shows that on 08.03.2023 when the informant had taken custody of vehicle from the Tahsil office after paying penalty and the said vehicle was being taken away by Samruddhi Highway, one Scorpio, Innova, Swift Desire and Tata Nexon vehicles obstructed them. Around 20 persons alighted from these vehicles and they assaulted driver of Highwa vehicle. Informant further states that he was abducted and was assaulted with iron rod and sword. He was left in the forest and that two gold rings and cash of Rs.65,000/- were robbed.

3. Learned counsel for the applicant submits that co-accused against whom similar role is attributed are granted anticipatory bail by this Court by order dated 13.07.2023. It is his submission that on applying parity the application be allowed.

4. Learned APP opposed the application by contending that the role of co-accused and the applicant is not similar. By referring to the statement of Madhav and Ajijul it is submitted that the presence of the car belonging the present applicant at the spot of incident is established. By referring to the statement of co-accused Parmeshwar it is submitted that the present applicant was driving i20 car (without number plate). Thus according to the prosecution this evidence is more than sufficient to connect the applicant with the present crime.

5. The incident in question is occurred on Samruddhi Express Way. There is no dispute about the fact that unless the vehicle passes through toll plaza, it cannot enter the said express way. Perusal of the investigation papers did no show entry of i20 car at the relevant time on the said express way. Only on the basis of statement of co-accused and one witness, it cannot be presumed that applicant is involved in the present crime. Contention of learned APP that i20 car is required to be seized also prima facie does not get support from the material collected by the investigating agency, which does not indicate the entry and presence of the car at the time of incident on the said express way.

Having regard to these facts, liberty of the applicant deserves to be protected. Application is allowed in term of interim order dated 01.08.2023. Applicant is directed to co-operate in the further investigation.

[R.M. JOSHI, J.]