

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1436 OF 2023

Raju s/o Raosaheb Pathade

Applicant

Versus

The State of Maharashtra

Respondent

Mr. A. K. Bhosle, Advocate for the applicant.

Mr. M. K. Goyanka, APP for the State.

CORAM : R. M. JOSHI, J.

DATE : 28th NOVEMBER, 2023.

PER COURT :

1. Applicant apprehends arrest in connection with Crime No. 269/2023, registered with Pundaliknagar Police Station, Tq. & Dist. Aurangabad for the offences punishable under Sections 143, 144, 146, 147, 148, 149, 307, 323, 324, 506 of Indian Penal Code and Section 135 of Maharashtra Police Act.

2. Shubham Tribhuvan lodged report with police on 19th July, 2023 at 23 hours reporting incident occurred on 17th July, 2023 at around 9.30 pm. It is alleged that the present applicant demanded money by threatening him with knife. Allegation against the co-accused is that they caused assault on him. It is also alleged

that the present applicant caused assault on the informant with the help of a stick.

3. Learned counsel for applicant submits that the report is lodged belatedly and the same is lodged after report of present applicant against the informant in respect of the said incident. It is stated that the in the incident occurred on 17th July, 2023, infact applicant had sustained grievous fracture injury and that he was required to hospitalised for a period of more than 15 days.

4. Learned APP opposed the application mainly on the ground that there are criminal antecedents against the present applicant. It is also sought to be argued that the applicant has placed reliance on injury certificate issued by private hospital and therefore, it becomes doubtful as to whether any such injury was caused to him or not. Learned APP states that the applicant has not attended the police station and has breached the conditions imposed by this Court. In response thereof, learned counsel for the applicant submits that the applicant was admitted in hospital at Hyderabad and therefore, he could not comply with said conditions.

5. The incident in question has occurred on 17th July, 2023 whereas report is lodged against the applicant on 19th July, 2023 at around 23 hours. Two injuries were caused to the informant which are simple in nature. Thus, there is reason to accept the argument advanced by learned counsel for the applicant that this could be a case of counter blast to the report lodged by the applicant herein. So far as injury certificate placed on record by the applicant is concerned, inspite of order passed by this Court granting interim protection to the applicant on 29th August, 2023, the Investigating Officer has not taken any pain to ascertain whether any injuries were caused as claimed by the applicant or not. This inaction on the part of the Investigating Agency shows that there is substance in the allegation made by applicant about the said injuries being caused to him.

6. Nature of injuries caused to the informant clearly show that it is by way of exaggeration or by counter blast to the report lodged by the applicant. If it is a case that he was assaulted by number of persons with sticks, it is not possible that only two simple injuries are caused to him. In view of this, application deserves to be

allowed and the same is accordingly allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb