

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT NAGPUR, NAGPUR.

...
CRIMINAL APPLICATION (ABA) NO. 179 /2023

Shaikh Imran Shaikh Kayum

.. Applicant

versus

The State of Maharashtra

Through Its PSO PS Balapur, Dist.Akola.

.. Respondent/s

.....
Mr.K.H.Anandani, Adv. for applicant

Mr.S.M.Ghodeswar, APP for Respondent

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CORAM: ANIL L. PANSARE, J.

DATED : 10th April, 2023.

PC:

The applicant is apprehending arrest in Crime No.110/2023 registered with Balapur Police Station, Dist.Akola for the offences punishable under Sections 326, 504 r/ws. 34 of the Indian Penal Code.

2. The accusation against the applicant is that he along with co-accused have assaulted one Sheikh Juber Sheikh Ayub by means of iron rod. The applicant is the one who has assaulted Sk.Juber on his head, left hand and left leg by means of iron rod and as a result, Sk.Juber sustained grievous injuries.

3. The learned APP submits that the custodial interrogation of the applicant is required. The assault was severe and as such, Sk.Juber sustained grievous injuries and the rod which is a weapon of assault, its recovery is of utmost importance and is possible only during custodial interrogation of the applicant.

4. As against, the learned counsel for the applicant submits that the applicant has material to show that he was not present at the scene of offence at the relevant time. According to him, he has passed on the information and the CCTV footage to the I.O. He further submits that there is rivalry between the applicant on one hand and Sk.Juber and his father, on the other hand. Thus, according to him, the applicant has been falsely implicated.

5. To my mind, the flip side of the story of rivalry can be the present crime. On the point of alibi, the Court ought not to make a comment in the application dealing with anticipatory bail. The investigation is in progress. The applicant is said to have assaulted Sk. Juber by means of iron rod, which resulted in grievous injuries. The statement of Sk. Juber indicates that the applicant was present and that therefore the investigation on the point whether the applicant was present or not, would only unveil the truth.

6. Considering the nature of allegations and the evidence collected so far against the applicant it would not be appropriate to grant anticipatory bail.

7. The I.O. shall consider the plea of alibi put forth by the applicant and to investigate the matter in the light of all attending circumstances. With the above observations, the Application is rejected.

[ANIL L. PANSARE, J.]

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