



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

Criminal Application [ABA] No.380 of 2023

Rakib Sagir Ahemad

vs.

State of Maharashtra, through its PSO Wani, District Yavatmal

 Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Mr. S.M. Lodha, Advocate for the Applicant.

Mr. I.J. Damle, A.P.P. for the Non-Applicant.

CORAM : M.W. CHANDWANI, J.
DATE : 23rd AUGUST, 2023.

Heard the learned Counsel for the applicant as well as the learned A.P.P. for the State.

02] By this application, the applicant prays for extraordinary relief of anticipatory bail under Section 438 of the Code of Criminal Procedure. The allegations against the applicant are that he along with other co-accused, in committing theft of motor cable from open mine of Western Coalfields Limited, assaulted Security Officer Subhash Naranje by means of sword and axe and thereby committed an offence of dacoity. On the complaint of Subhash Naranje, Offence under Section 395, 352 and 332 of the Indian Penal Code came to be registered by Wani Police Station vide Crime No.415/2022

03] The learned Counsel for the applicant submits that charge-sheet has already been filed, wherein the applicant-accused is shown as absconding accused. The main submission of the learned Counsel for the applicant is that the name of the applicant does not appear in the First Information Report (FIR) though in additional reply filed by the State contends that the alias name of the applicant is being

appeared in the FIR, which is not correct. He submits that no role is attributed to the present applicant and other accused are released on regular bail by this Court. Therefore, he prays for releasing the applicant on anticipatory bail.

04] The learned A.P.P. for the State submits that the applicant has played major role and used sword while committing the crime. The weapons i.e. sword and axe as well as the motorcycle used in the offence are yet to be recovered from the applicant. Therefore, the custodial interrogation is necessary. The offence of dacoity has been committed, which is of serious in nature and, therefore, sought rejection of the application.

05] Though the name of accused is mentioned in the application as Rakib Sagir Ahemad, which is not appearing in the FIR. The name of accused appearing in the FIR is Rafik Siddique. The material attached to the case diary also reveals that the applicant is also known by name Rafik.

06] Perusal of the case papers further shows that the applicant used the sword while committing the offence of dacoity. It cannot be ignored that one co-accused was caught raid handed on the spot, when the patrolling party of Western Coalfields Limited came on the spot while the offence of dacoity was being done. During interrogation, the name and the role played by the applicant while committing the offence came to be revealed. Since, it appears from the material that the applicant has played major role in the alleged act. Further considering the fact that sword and motorcycle are yet to be recovered, which will be helpful to the prosecution, the custodial interrogation may be necessary.

07] Considering the nature of allegations and the gravity of offence, I am not inclined to exercise the extraordinary relief of granting an anticipatory bail in favour of the applicant. Hence, the application is rejected.

JUDGE

**sandesh*