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

55 ANTICIPATORY BAIL APPLICATION NO. 28 OF 2024

ROHIT S/O SUDHAKAR DABHADE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...
Advocate for Applicant : Mr. Dighe Praveen S.
APP for Respondent/State : Mr.P.K. Lakhotiya
...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 23rd September, 2024.

P.C.:

1. Heard the learned counsel for the applicant. Though Mr.Telgote, learned counsel has filed application for assist to P.P., his application is allowed but on last date he was not present. Hence, this Court passed the order that if none present for the informant on the next date, this Court would hear the matter on merit. Today also none present for assist to P.P., hence I am deciding this matter after hearing the learned counsel for the applicant and the learned APP.

2. The applicant apprehends arrest in connection with FIR No.330 of 2023 registered with MIDC, CIDCO Police Station, Aurangabad, for the offences punishable under sections 307, 506 read with 34 of the Indian Penal Code (For short, "IPC") and section 135 of the Maharashtra Police Act, 1951.

3. It is prosecution's case that on 12th July, 2023, the informant had gone with his child for celebrating his younger son's friend birth-day. While on the way he received phone call from his son that one Yogesh

and Sunny were abusing him and assaulting Janabhau Mule with waist belt. The informant told his son to go to police station and lodge the complaint. When informant was on the way, it is alleged that the applicant and co-accused Sambha Borde came there on motorcycle. When the informant asked them why they abused his son and beaten up Janabhau Mule, after hearing that, it is alleged that the applicant and co-accused told the informant that they had come to kill him. By saying so co-accused Sambha took out knife from his pocket and the applicant was holding iron article. By seeing that the informant tried to get in his Safari vehicle. When he was opening the door, at that time, the applicant and co-accused pulled him back. It is alleged that the applicant caught hold the informant from back side and co-accused Sambha gave blow of knife on his neck. Informant tried to avoid the said blow, in that attempt, he sustained injuries. Due to shouts of the informant, people gathered there and the applicant and co-accused ran away.

4. It is the contention of the learned counsel for the applicant that the applicant has been falsely implicated in this case. The entire incident is captured in CCTV footage. The applicant was not holding any weapon. Considering the allegations against the applicant, his custodial interrogation is not required and requested to allow the application.

5. It is the contention of the learned APP that the applicant and

co-accused assaulted the informant with knife. The applicant had caught hold the informant from back side. Thereafter, the co-accused gave blow of knife on the neck of the informant. Informant has sustained injuries in the said assault. Considering the allegations against the applicant, his custodial interrogation is required and requested to reject the application.

6. I have heard both the learned counsel. Perused the F.I.R. and police papers produced on record.

7. The allegations against the applicant are that he pulled back the informant when he tried to enter in his Safari vehicle and caught hold him from back side and at the relevant time, co-accused Sambha gave blow of knife, which informant avoided. It appears from the police papers that the entire incident is captured in the CCTV footage and police report shows that there was scuffle between the informant, applicant and co-accused. It appears that no weapon was used in the said scuffle. Considering these facts, the custodial interrogation of the applicant is not required and I pass the following order :-

ORDER

(i) The application is allowed.

(ii) In the event of arrest of the applicant in connection with FIR No.330 of 2023 registered with MIDC, CIDCO Police Station, Aurangabad, for the offences punishable under sections 307, 506 read with 34 of the Indian Penal Code and section 135 of the Maharashtra

Police Act, 1951, the applicant be released on executing personal bond in the sum of Rs.25,000/- with one surety of the like amount, on the following conditions :-

(a) the applicant shall attend the concerned police station as and when required by the Investigating Officer.

(iii) It is made clear that the observations made in this order are prima facie in nature and the trial Court shall not get influenced by the same and decide the trial on its own merits.

[SHIVKUMAR DIGE, J.]

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