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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.83 OF 2024

Fahim Mohammed Sajid Mohammed Shaikh

APPLICANT

VERSUS

The Superintendent of Police and Another

RESPONDENTS

.....
Mr. Sayyed tauseef Yaseen h/f Mr.Mohd Aseem Mohd Abdul
Kaleem, Advocate for the applicant

Mrs. P. V. Diggikar, APP for respondent - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 18th MARCH, 2024

ORDER :

1. Applicant apprehends arrest in Crime No. 920 of 2023 registered with Nandurbar City Police Station, District - Nandurbar for offence punishable under sections 394, 506 read with 34 of the Indian Penal Code.

2. FIR is lodged by Abdul Gaffur Abdul Rehman Pinjari alleging that on 8th December, 2023, at about 11.30 a.m., he was assaulted by Farhan Hussain with fighter on face. At that time, Shoyeb Mansuri and Rafat pulled him down from the motorcycle and assaulted him with fist and kick blows. It is alleged that applicant has snatched his chain and Rs.15,000/- from his pocket. Rafat Syed and Farhan Hussain threatened him that he should withdraw the case, else he will be killed. The said incident

is witnessed by Shahruk Shaikh Nasir, Manikrao Dullabh Samudre, Firoz Ayuub Mansuri.

3. Heard learned advocate for applicant and learned APP for the State. Perused the papers of investigation.

4. Applicant claims to be innocent. He submits that at the time of the alleged incident, at the instance of one lady from Muslim community, who is resident of Nandurbar, FIR is lodged against informant, which is registered at Crime No. 921 of 2023, for offence punishable under section 354, 354-A and 323 of the Indian Penal Code. It is alleged in the said FIR that, on 8th December, 2023, at about 11.00 to 11.30 a.m., while she was proceeding on a road, applicant outraged her modesty. Applicant further claims that at the time of alleged incident i.e. at 11.30 a.m. he was in a shop and was not present at the spot of alleged incident. Photographs taken from CCTV installed in the said shop are placed on record.

5. Perusal of investigation papers reveals that though the alleged eyewitnesses have confirmed the assault on informant by accused Farhan Hussain, they have not stated anything about snatching of gold chain and cash from pocket of informant.

6. Admittedly, there are previous disputes between applicant

and informant. Therefore, *prima facie*, over exaggeration and false implication cannot be ruled out at this stage.

7. Learned APP submits that for conducting identification parade and recovery, presence of applicant is necessary.

8. So far as recovery is concerned, in the light of facts mentioned above, his custody cannot be said to be necessary. However, for identification parade, his presence can be secured.

9. In the result, following order.

ORDER

- A. Application is allowed.
- B. In the event of arrest of applicant in Crime No. 920 of 2023 registered with Nandurbar City Police Station, District - Nandurbar, applicant - Fahim Mohammed Sajid Mohammed Shaikh be released on executing Personal Bond and Surety Bond of Rs.15,000/- with one surety in the like amount.
- C. Applicant shall attend the concerned police station from 20th to 27th March, 2024 everyday between 10.00 a.m. and 02.00 p.m. and thereafter as and when called by the Investigating Officer. Applicant shall co-operate in the investigation and shall not tamper prosecution evidence.

**[NITIN B. SURYAWANSHI]
JUDGE**