



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

981 ANTICIPATORY BAIL APPLICATION NO. 823 OF 2024

Bharat Badrinath Kute

VERSUS

The Superintendent Of Police and another

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Advocate for Applicant : Mr. P.P. More

APP for Respondents: Mr. Satish A. Gaikwad

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CORAM : SHIVKUMAR DIGE, J.
DATED : 19th JUNE, 2024.

PER COURT :-

1. The applicant apprehends arrest in connection with FIR No.267 of 2024 registered with Taluka Jalna Police Station, district Jalna, for the offence punishable under sections 353, 332, 323, 504, 506 r.w. 34 of I.P.C.

2. It is the prosecution's case that the informant Irfan Shaikh is Talathi of village Pachanwadgaon. He was having additional charge of Rohanwadi Sajja. On 22.4.2024, at about 6.00 a.m. he alongwith others, had been to village Rohanwadi and Pachanwadgaon for initiating action against illegal transportation of sand. At about 7.00 a.m. on the bank of river Kundlika, he found two tractors unauthorizedly loaded with sand alongwith the trolleys without having registration number plates. On inquiry, the informant came to know

that the tractors are owned by the applicant. The informant asked the unknown persons to take those tractors to the Tahsil office. The informant sat in one tractor and his staff had followed the another tractor on their motor cycle. When both the tractors came out of river, at that time, the applicant came near the tractor on which the informant was sitting. The applicant told the informant that the tractors are belonging to him and he will come with him. The applicant asked the driver to get down. The applicant sat on the driver seat and he drove the tractor. The informant sat alongside of the applicant in the said tractor. When the informant was proceeding in the tractor, the driver of another tractor ran away. Thereafter, the applicant called his friends by his mobile phone and told them that his tractor has been caught and called them at one place. Thereafter, the applicant drove the tractor in fast speed, hence the complainant asked the applicant to stop the tractor. When the complainant got down from tractor, the applicant abused and assaulted him with fist and kick blows and threatened the complainant that if he touches the tractor he will kill him and the applicant ran away with the tractor. Thereafter, the complainant went to hospital. He took treatment there and lodged the report.

3. It is the contention of the learned counsel for the applicant that the applicant has been falsely implicated in this case due to the

politics at village level. Learned counsel further submitted that the complainant had not inquired with two unknown persons who were driving the tractors. Only the name of the applicant is mentioned in the F.I.R. which shows that due to politics at village level, the name of the applicant is mentioned in the F.I.R. Learned counsel further submitted that no custodial interrogation of the applicant is required as the offence under the Mines and Minerals Act is not registered against the applicant. Hence he requested to allow the application.

4. It is the contention of the learned APP that the applicant is a habitual offender. Earlier three offences of same nature have been registered against the applicant. The applicant assaulted to the Government servant while he was on duty. The medical certificate produced on record supports the complainant's case. The custodial interrogation of the applicant is required to recover the tractor and the sand in it. The statement of eye witnesses shows that the complainant had gone in the tractor of the applicant. Hence he requested to reject the application.

5. I have heard both the learned counsel. Perused the F.I.R. and the police papers produced on record. The complainant is a Government servant. He has narrated the incident happened on that day. After the incident, he has been examined by the doctor. The

medical papers show that there was contusion over the nose of the complainant which supports the complainant's case of assault by the applicant. Earlier three offences under Section 379 of I.P.C. and under Sections 3 and 4 of the Mines and Minerals Act have been registered against the applicant. Though in the present case, offence punishable under the Mines and Minerals Act is not registered, as the applicant ran away with sand. Though it is the contention of the learned counsel for the applicant that the applicant has been falsely implicated in this case due to village level politics, the complainant is a Government servant, he has no reason to implicate the applicant in the false case. Moreover, the eye witness has stated about the act of the applicant. The custodial interrogation of the applicant is required to seize the tractor used in the crime. In view of the above, I pass the following order:-

ORDER

The application is rejected.

(SHIVKUMAR DIGE, J.)

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