

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2087 OF 2021

Vitthal Mahadev Biradar : Applicant
Vs.
The State of Maharashtra : Respondent.

Adv. Ranjit Patil, for the Applicant.
Adv. A. R. Metkari, APP for the State.

CORAM : KISHORE C. SANT, J.
DATE : 20TH MARCH, 2024

P.C. :

1. Heard the learned Advocate for the parties.
2. The present Application is by Accused No.7 in C.R.No.166 of 2021 dated 23/07/2021 registered with Umadi Police Station, District Sangli. Crime is registered for the offences punishable under Sections 307, 143, 147, 148, 149 & 427 of the Indian Penal Code, Section 135 of the Maharashtra Police Act, 1951 and Section 4 & 25 of the Arms Act. It is the allegation that on 22nd July, 2021 at 7.00 p.m. in the evening, the informant received a call from his brother in law calling him to village Sankh. He went to Royal hotel for dinner

along with others, while taking dinner on the ground present Applicant along with other six accused came and assaulted informant & other with iron rod, sword etc. A specific role alleged against the Applicant is that he assaulted with the hunter on the stomach and on the back of the informant. One Mhalappa Pujari was seriously assaulted by another accused namely Gotya Kalli with the sword. The said Mhalappa Pujari received grieves injury. The Applicant filed an Application before the Sessions Court. However, the same came to be rejected by order dated 18th August, 2021. The Applicant is therefore before this Court.

3. It is argued that all the Co-accused have been granted regular or anticipatory bail. Even Gotya Kalli against whom the Allegation is made of assaulting Mhalappa Pujari with a sword, he is also released on bail on a long back. This Application is pending since 2021. It is submitted that now nothing is to be recovered, the investigation is almost complete. There was interim relief in fvour of the Applicant. There is no altered reason taking place thereafter. Learned Advocate thus prays for allowing the Application.

4. Learned Advocate for the added Respondent No.2 vehemently opposes the Application stating that there is a specific role attributed to the present Applicant.

5. Learned APP informs that he has not received the instructions from the Investigating Officer in spite of communication.

6. This Court finds that, this Court had already protected the Applicant by way of interim relief by various orders since 2nd September, 2021.

7. Learned APP had sought time to produce on record injury certificate. Till now such certificate is not produced on record inspite of granting several chances on that ground. This Court had even recorded in its order dated 4th August, 2022 that there is serious lapse on the part of the Investigating Officer. The Registry was directed to issue notice to the Superintendent of Police, Sangli directing him to ensure presence of of the Investigating Officer on 12th August, 2022 before this Court. However, inspite of that no injury certificate is produced. It is seen that the prosecution has not made serious attempt to oppose this Bail Application neither has produced

certificate. Learned Advocate had produced on order dated 1st September, 2021 passed by the Learned Sessions Judge, Sangli granting bail to Accused Nos.1 & 2. This Court by Order dated 29th September, 2021 granted Anticipatory Bail to another accused Abhishek.

8. This Court thus finds that now three years after the incident it would not be proper to direct Applicant to be taken into custody no propose will be served. One more reason for allowing the Application is that in spite of several chances the prosecution has also not produced the injury certificate on record. Thus the prosecution itself is serous. This Court finds a case is made out to allowing the Application. Hence the following order.

ORDER

(a) Application is allowed.

(b) The Applicant shall be released on bail in the event of his arrest in connection with the C.R. No.166 of 2021 registered with Umadi Police Station for the offences punishable under

Sections 307, 143, 147, 148, 149 & 427 of the Indian Penal Code, Section 135 of the Maharashtra Police Act, 1951 and Section 4 & 25 of the Arms Act, on executing P.R. bond and solvent surety in the amount of Rs.15,000/-.

(c) He shall attend the Police Station as and when required by the police.

(d) The Application stands allowed and is disposed of.

(KISHORE C. SANT, J.)