



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

Criminal Application (ABA) No. 864 of 2024

Ganesh Bapurao Bhatewad

Versus

The State of Maharashtra through its Police Station Officer, Bitargaon, Tq.
Umarkhed, District Yavatmal

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Pushkar Ghare, Advocate for the applicant.

Shri A.M.Goghare, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 27th JANUARY, 2025.

Apprehending the arrest at the hands of police in connection with Crime No. 310 of 2024 registered with Police Station Bitargaon, Taq. Umarkhed, District Yavatmal for the offences punishable under Sections 310(4) and 310(5) of the Bharatiya Nyay Sanhita, 2023 and under sections 25, 4 of the Indian Arms Act, the applicant approached to this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of the report lodged by Nilesh Bhalerao on an allegation that when he was on patrolling duty along with the other police staff, he witnessed five persons in a suspicious

conditions, and they were intercepted. At the relevant time, the present applicant fled away from the spot of incident and other co-accused were arrested and from them the deadly weapon were seized. On the basis of the said report, the police have registered the crime against the present applicant.

3. Heard learned counsel for the applicant who submitted that other co-accused are already released on regular bail, wherein the Sessions Court has already observed that no *prima facie* material is brought on record as to whether the applicants were preparing to commit dacoity or there is any evidence as to the antecedents of the present applicant and other co-accused and they are released on bail. He submitted that as far as the present applicant is concerned, he was not absconding but he has approached to the Court for pre-arrest bail. Mere recovery of weapon is not sufficient to ascertain that it was an attempt to commit dacoity or preparation to commit the dacoity. In view of that applicant be protected by granting ad-interim anticipatory bail.

4. Learned Additional Public Prosecutor strongly opposed the said application on the ground that the custodial interrogation of the present applicant is

required for identification purpose. In view of that, the application deserves to be rejected.

5. On going through the recitals of the FIR and the submissions made by both sides, it is well settled that mere recovery of the weapons is not sufficient to assume that they were preparing for the dacoity. The only allegation is that they were found in a suspicious conditions. As far as the applicant which is alleged that he was absconding, there is no material to support the said contention. At this stage, considering the allegation levelled against the present applicant and considering that already weapons are recovered, the custodial interrogation is not required. In view of that, application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- i] The criminal application is allowed;
- ii] In the event of the arrest, in connection with Crime No. 310/2024 registered with Police Station Bitargaon, Tq. Umarkhed, District Yavatmal for the offences punishable under Sections 25, 4 of the Arms Act, 1959; and Sections 310(4) and 310(5) of the Bhartiya Nyaya Sanhita, 2023, **the applicant – Ganesh Bapurao Bhatewad** shall be released on ad-interim

anticipatory bail, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.

iii] The applicant shall attend the concerned police station as and when required for the investigation purpose and shall co-operate with the investigating agency.

iv] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

6. The criminal application is disposed of.

[URMILA JOSHI PHALKE, J.]