

Order below Exh.1 in Cri. Bail Application No.128/2022.

{ Satish Diliprao Jadhav Vs. State }

This is application under section 438 of the Criminal Procedure Code for grant of anticipatory bail.

2. The present application is moved by the applicants-accused Satish Diliprao Jadhav praying to release him on bail in connection with the CR No.12/2022 registered with Vani Police Station under section 392,395,324,325,504,506,188,170,171 r.w.s.34 of the Indian Penal Code and section 37(i)/135 of the Maharashtra Police Act. It is alleged that on 24.1.2022 the first informant Ganesh Yashwant Deshmukh was assaulted by the accused at Jagdamba Mata Temple, Kasbe-vani, Tal. Dindori, Dist. Nashik, who sustained grievous injury in the scuffle.

3. It is alleged in the application that, applicant-accused is local resident. He has not committed any offence as alleged in the FIR. He is ready to abide all conditions laid down by this court. A counter FIR appears to be lodged by Bharat Jairam Wagh against first informant regarding the same incident. Therefore, prayed to release the applicant-accused on anticipatory bail.

4. I.O. PSI R.N. Bharsat is present. He opposed the bail application by filing his say. Heard, both the parties. Perused the record.

5. The learned counsel Shri. R.Y. Patil has fairly placed on record the previous litigations wherein the present applicant-accused was involved, as per direction by this court on previous date. There are several cases lodged against the present applicant-

accused. However, at the same time, he placed reliance upon following case-laws;

- i) **Rajesh Babanandan Shah Alias Damchya Vs State of Maharashtra, LAWS (BOM) 2006-3-32**
- ii) **Maulana Mhod. Amir Rashadi Vs State of Uttar Pradesh, LAWS (SC) 2012-1-28**
- iii) **Navendu Babbar Vs State of NCT of Delhi, LAWS (DLH)-2020-6-62**
- iv) **Alnesh Akil Somji Vs State of Maharashtra, LAWS (BOM)-2021-12-144.**

In above-said case-laws, it is categorically held that, merely because there are some other cases pending against the petitioner that could not be a ground to continue the custody of the petitioner. Therefore, so far as previous record of the applicant-accused, it may not go into the details, only merit of the present case is to be decided as to whether applicant-accused is entitled to anticipatory bail or not.

6. It is matter of record that the accused 1) Bharat Jairam Wagh, 2) Anand Nandlal Somvanshi, 3) Suraj Digamber Pandit and 4) Nana Dinkar Dhoom have been arrested by the Vani Police Station in present crime and produced before the learned JMFC, Dindori, who granted police custody and at present they are in MCR. Record further shows that incident occurred on a spur of moment and free fight between both the parties. The learned counsel for applicant-accused submitted that his client also sustained injury to his ear and he is taking medical treatment in Nashik. The I.O. has submitted that the present applicant-accused is the main accused in the present crime and at his instance the entire offence took place. He called rest of the accused and with the help of them, he assaulted the first informant Ganesh Deshmukh. The

learned counsel Shri. R.K. Lokhande represented for first informant has submitted that present applicant-accused has assaulted the first informant and other accused accused has instigated the present applicant-accused for assault the first informant, who is injured and taking medical treatment in private Hospital at Nashik.

7. The learned APP also opposed the application. So far as applicability of Section 395 of IPC is not to be go into the details only the question as to whether accused is required for custodial interrogation is the important factor. On perusal of the entire record, it appears that the alleged incident took place at the instance of present applicant-accused, who had parked his two wheeler in front of temple and when he was objected, he took exception to the same and therefore, entire incident took place. Thus, considering the fact that the name of applicant-accused is mentioned by the first informant in the FIR. He is leading role in the offence, his custodial interrogation is very much essential and therefore, this court is not inclined to allow the anticipatory bail application. Hence, following order.

ORDER

1. Anticipatory Bail Application No.128/2022 is hereby rejected.
2. Inform concerned police station accordingly.

Date: 01.02.2022

(M. A. Shinde)
Additional Sessions Judge-8,
Nashik.