

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.2307 OF 2019

Nilesh Balasaheb Poman	 Applicant
versus	
The State of Maharashtra	 Respondent

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- Mr.Satyam H. Nimbalkar, Advocate for Applicant.
- Ms.S.S. Kaushik, APP for the State/Respondent.
- PH Mr.D.L. Mane, Saswad Police Station, Pune, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 18th OCTOBER, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.316/19 registered with Saswad Police Station, Pune, under sections 436, 427 of the Indian Penal Code.
2. The FIR is lodged by one Kavita Kailas Poman. She has stated in her FIR that she was receiving phone calls from mobile No.7219245429. The caller used to give his name as Ganesh Dhumal. On further enquiries he told that the number was given by one Sachin Bhanage and Vijay Chavan. The informant and

her relatives had suffered damages to their articles, agricultural produce etc. On 08/09/2019, when the informant and her children were sleeping in the house, at 11.15 p.m., suddenly there was smoke in the house. The door was locked from outside. They tried to come out, but they could not. Then the informant called her brother-in-law and nephew. They came there and opened the door. They found that somebody had released the cattle from the cattleshed and the door was partially burnt at the bottom side. On this basis FIR was lodged.

3. The suspicion was expressed against Sachin Bhanage and Vijay Chavan. They were arrested. When those two accused made application for bail, their application was opposed and it was mentioned that besides this particular incident there are other incidents wherein the accused had caused damage to the agricultural produce and to the house of the informant and others. It is mentioned in that report that the accused No.1 and 2 i.e. Vijay Chavan and Sachin Bhanage had committed all this mischief at the instance of the present Applicant.

4. Heard learned Counsel Mr.Satyam H. Nimbalkar for the Applicant and learned APP Ms.S.S. Kaushik for the State.
5. Learned Counsel Mr.Nimbalkar submitted that there is absolutely no material against the present Applicant to connect him with the alleged offence.
6. Learned APP submitted that the Applicant had picked up a SIM card which had fallen on the floor of a mobile shop. He had stolen a mobile phone from one Satish and had used that SIM card to call the informant. Thus he used to harass her. She has further submitted that in the past also mischief were committed by the accused. She submitted that the offence is serious and it was committed at the behest of the Applicant.
7. I have considered these submissions and in particular I have perused the case diary. In the entire case diary, I could not find any material to show that the Applicant had committed this

offence, through the accused Vijay Chavan and Sachin Bhanage. The learned APP also could not point out from the case diary any material against the present Applicant except the allegations noted above. Thus the case against the Applicant is based only on suspicion. That suspicion also is unfounded. The other two accused are already on bail. Therefore there is no question of their further interrogation as on today. There is absolutely no material against the Applicant. The investigation papers include a supplementary statement of the informant, wherein she has stated that the Applicant on his own had approached them and had confessed to his commission of offence. This itself appears to be highly doubtful and there is no reason as to why the Applicant would do that. In these circumstances, custodial interrogation of the Applicant would not be justified. However, he will have to attend the concerned police for investigation purpose. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.316/19 registered with Saswad Police

Station, Pune, the Applicant is directed to be released on bail, on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

- (ii) The Applicant shall attend the concerned Police Station from 13/11/2019 to 16/11/2019 between 01.00 to 04.00 p.m. and shall cooperate with the investigation.
- (iii) It is made clear that if the investigation reveals some concrete material against the Applicant, the State is at liberty to make application for cancellation of anticipatory bail granted to the Applicant.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)