

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 769 OF 2020

Prakash s/o. Ramkishan Kendre, .. Applicant
Age. 30 years, Occ. Agriculturist,
R/o. Bramha Vadi, Tq. Ahemadpur,
Dist. Latur.

VERSUS

The State of Maharashtra .. Respondent
Though Police Inspector,
Ahemadpur Police Station,
Dist. Latur.

Mr.P.D. Bachate, Advocate for the applicant.
Mr.V.M. Kagne, APP for the respondent/State.

**CORAM : V.L.ACHLIYA, J.
DATED : 27.10.2020**

P.C. :-

01. The applicant apprehending arrest in Crime No.262, registered with Ahemadpur Police Station, Dist. Latur for the offences punishable under sections 307 and 354 of the Indian Penal Code, has preferred this application seeking pre-arrest bail.

02. Heard learned Counsel for the applicant and learned APP representing the respondent/State. Perused the papers of investigation and the order passed by the learned Additional Sessions Judge, Ahemadpur, rejecting

the application seeking pre-arrest bail.

03. In brief, it is contention of the learned Counsel for the applicant that the complaint filed by the informant is false and frivolous and nothing but gross abuse of process of law. It is submitted that the applicant and the husband of the informant had entered into an agreement to allow the husband of the informant to cultivate the land on crop share basis. A written agreement to that effect executed in the month of May, 2020. The informant and her husband were not willing to act as per the agreement. They were claiming money from the applicant without the work being carried out in terms of agreement. The applicant shown willingness to pay the amount to the extent the work carried out by them. As a well planned conspiracy hatched by them, the informant and her husband came to his house and created drama of consumption of poisonous substance and lodged false complaint alleging therein that when the informant and her husband demanded money of work done, the applicant outraged her modesty as well as forcibly administered poisonous substance i.e. insecticide to the informant. It is submitted that during the course of investigation, the Investigating Officer has recorded the statement of various persons. Except the informant and few persons close to her, no other independent person supported the

allegations made in the complaint. It is submitted that the applicant is a respectable person and agriculturist by profession. He has no past record of indulging into criminal activities. The arrest of the applicant would cause harassment to him for no offence committed on his part. By referring the facts of case, the learned Counsel submitted that custodial interrogation of the applicant is not required. The grant of anticipatory bail to the applicant would not hamper on-going investigation. It is submitted that the applicant is ready and willing to abide any conditions that may be imposed in the event of grant of protection under section 438 of the Criminal Procedure Code.

04. On the other hand, learned APP opposed the application with contention that there is prima facie case to connect the applicant with the commission of offence. By referring over all facts of the case, learned APP submits that the informant was admitted in the hospital with history of administration of poisonous substance. During the course of investigation, the statements of husband of the informant and other persons have been recorded. All of them supported version of incident given by the informant. In order to conduct proper investigation, the Investigating Officer may require custodial interrogation of the applicant. The

grant of anticipatory bail to the applicant may affect the on-going investigation.

05. I have carefully considered the submissions advanced in the light of over all facts of the case and accusation made against the applicant. Perusal of the papers of investigation spell out that on 30.06.2020, the applicant and husband of the informant entered into an agreement. By virtue of the agreement, the husband of the informant agreed to cultivate the land of the applicant on crop-share basis, on the terms incorporated in the agreement. One of the terms and conditions incorporated in the agreement to the effect that, in the event the husband of the informant failed to cultivate the land as per the agreement, then he will not be entitled for any amount including labour charges. As per the FIR lodged on the basis of statement of the informant recorded in the hospital, she has stated that on 11.08.2020 at 02.00 p.m., she went along with husband to the house of the applicant to demand the amount of cultivation of land. At that time the applicant outraged her modesty. She further stated that 2-3 days prior to the incident, the applicant had kissed her and asked her to run away with him. She has further alleged that the applicant has forcibly administered poisonous substance in her mouth. On the basis of statement recorded, the

aforesaid offence came to be registered against the applicant.

06. Perusal of the papers of investigation spell out that there is no consistency in the statements of the informant and the witnesses including her husband as to the time and the manner in which the incident was occurred. As per the version of the incident first in time given by the informant, which leads to registration of aforesaid offences, the incident was occurred on 11.08.2020 at 02.00 p.m. in presence of husband of the informant. In her statement given first in time during her alleged admission in the hospital, the informant stated that on 11.08.2020 at 02.00 p.m. she accompanied with her husband-Ankush came to the house of the applicant/accused for demanding money of agricultural land taken on crop share basis. When she demanded money, the applicant outraged her modesty. She further stated that 2-3 days prior to the incident, applicant had asked her to run away with him and taken her kiss. She further stated that the applicant forcibly administered insecticide in her mouth and she was brought to hospital by witness-Raghunath Vishwanath Ghule and her husband. If we consider the statement of Raghunath Ghule recorded during the course of investigation, then according to him the incident was occurred at about 10.00 a.m. He stated

that after hearing shouts when he came out of his house, he saw the informant lying in the house of the applicant. When he enquired from her as to what happened, she disclosed that the applicant caught hold her and outraged her modesty and as she was not responding for sexual favour, he administered insecticide and she was feeling dizziness. He further stated that he contacted Ankush – husband of the informant and asked him to take his wife to hospital. Thereafter, the informant was taken to the hospital by her husband and mother. There is total contradiction in respect of date, time and manner in which the incident was occurred in between the informant and the alleged eye witness. Similarly, the statement of Ankush – husband of the informant contradicted version of incident given by his wife – informant. He has stated that after his wife left the house to bring money from the applicant, he took bath and was waiting for his wife. At about 01.30 p.m. to 02.00 p.m. he heard commotion. When he went in the village, Raghunath Ghule told him that his wife is lying in the house of Prakash Kendre. When he visited house of Prakash Kendre and enquired with his wife, his wife told him that she is not in a position to speak. He, therefore, brought to her in hospital at Ahemadpur. In that view, the statement of husband of informant is contradicting the version given by the informant and witness Raghunath Ghuge. The statements of

informant and her husband were recorded under section 164 of the Criminal Procedure Code. In the statement given before the Magistrate, the informant as well as her husband given altogether different version of the incident. There is set of witnesses who have stated that no such incident as stated by the informant has taken place. In that view, possibility cannot be ruled out of applicant being implicated in false case with exaggerated version of the incident, on account of dispute with the informant and her husband.

07. In view of over all facts of the case, nature of the accusation made against the applicant and contradictory statements regarding incident by the informant, her husband and other witnesses, the possibility of the applicant being framed in false case with exaggerated version of the incident on the part of the informant cannot be ruled out. Nothing incriminating has been seized during the course of investigation. The applicant is an agriculturist by profession. He has no criminal antecedents. The grant of anticipatory bail to the applicant would not affect the on-going investigation. In absence of protection being extended, there is every likelihood that the applicant may be arrested and humiliated. I am, therefore, inclined to entertain the application and pass following order :-

O R D E R

(i) The application is allowed.

(ii) In the event of arrest of the applicant in Crime No.262 of 2020, registered with Ahemadpur Police Station, Dist. Latur for the offences punishable under sections 307 and 354 of the Indian Penal Code, the applicant be released on furnishing bail in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one surety in like amount, with following conditions.

a) The applicant shall attend Ahemadpur Police Station, Dist. Latur from 29.10.2020 to 31.10.2020 from 01.00 p.m. to 05.00 p.m. and co-operate in investigation.

b) From 01.11.2020, the applicant shall attend the police station as and when directed by the Investigating Officer for the purpose of investigation.

c) The applicant shall not indulge into any act amounting to pressurizing or tampering with the prosecution witnesses.

d) In the event of breach of any condition, the bail granted to the applicant liable to be cancelled. The prosecution is granted liberty to move the Court for cancellation of bail in the event of breach of condition of bail on the part of applicant.

08. The application is disposed of in above terms. It is clarified that the observations made above are prima facie observations made for the limited purpose of deciding present application. None of the observations made in the order be treated as observations as to merit of the case of prosecution against the applicant.

[V.L.ACHLIYA,J.]