

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

ANTICIPATORY BAIL APPLICATION NO.281 OF 2020

Mrs.Bayadabai Hanumant Kolekar	.. Applicant
<i>Vs.</i>	
State of Maharashtra	.. Respondent

.....

Mr.Mahesh B. Zanwar, Advocate for the Applicant.

Mr.S.S. Pedenkar, APP for the Respondent – State.

Mr.Rohit Shevate i/b. Mr.Jaydeep Mane, Advocate for
Complainant / Intervener.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 03, 2020.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.557 of 2019, registered with Tembhurni Police Station, Solapur, for the offences punishable under Sections 307, 114, 143, 147, 148, 149, 504 and 506 of Indian Penal Code (“IPC”, for short). Subsequently, charge under Section 302 of IPC was added.

2 The prosecution case is that First Information Report (“FIR”, for short) was lodged on 6th October, 2019, by Suryakant

Chandrakant Hande. The deceased Chandrakant Hande is the father of the complainant. He had purchased two acres of land from Gat No.6 and the said land was purchased from one Dashrath Navle. Dashrath Navale had purchased the land from original owner Hanumant Kolekar. There was dispute between Hanumant Kolekar and Chandrakant Hande (deceased). Suit was filed by Hanumant Kolekar for cancellation of Sale-Deed of complainant's father. The judgment was delivered in favour of complainant. Wife of Hanumant (applicant) has encroached upon land and started residing in tin shed. On 5th October, 2019, complainant's father and Rajendra Shinde went to the field for sowing Javar. At about 10:15 a.m., complainant and his cousin followed them with Tractor. When complainant reached near the land in question, he noticed that accused no.1 Hanumant Kolekar, accused no.3 Dattatraya Hande, accused no.4 Ajinath Hande and accused no.5 Haridas Hande were standing at the site of the field and they were discussing something. Accused no.1 entered their land. Accused nos.3, 4 and 5 instigated accused no.1 stating that victim should not be spared. When the complainant started operating Tractor, applicant started abusing and throwing stones on the Tractor. Accused no.1 started abusing complainant's father. Thereafter accused no.1 ran inside the tin shed and came

out with an axe in his hand. Complainant rushed towards his father to save him but before he reached, accused no.1 inflicted one axe blow on the head of his father. He fell unconscious. He succumbed to injury. Accused ran away from the spot.

3 Applicant preferred an application for anticipatory bail in the Sessions Court which has been rejected. During the course of investigation, accused Ajinath Hande, Suryakant Hande and Dattatraya Hande were arrested. They had preferred application for bail before this Court, which was allowed vide order dated 14th January, 2020.

4 Learned Advocate for the applicant submits that the applicant is a lady. The only role attributed to her is that she had pelted stones on the Tractor and abused the complainant and his father. The other accused were arrested and granted bail. The incident had occurred on account of dispute between both the parties. The applicant is falsely implicated in this case.

5 Learned APP submitted that the applicant was present at the scene of offence. She is participated in the crime. The co-accused were granted bail, after their arrest. There is

dispute between both the parties, which has resulted into the alleged incident. NC complaint was filed against the applicant

6 Learned Counsel for the intervener submitted that the applicant had played vital role in the crime. There is a dispute between both the parties. Suit was filed by the accused which was subsequently dismissed. The applicant has instigated the co-accused. The applicant was occupying the land in dispute and he is the main instigator. The incident had occurred in pursuant to the abuses and the pelting of stones by the applicant.

7 It is submitted that the Sessions Court while rejecting the application for anticipatory bail has considered the role attributed to the applicant.

8 I have perused the FIR. Applicant is a lady having no criminal antecedents. On perusal of FIR, it can be seen that there was rivalry between both the parties on account of property dispute. The co-accused had arrested had instigated accused no.1 to take action against the complainant and his father on the date of incident. Accused no.1 went inside the tin shed and came out with an axe in his hand and assaulted the father of complainant.

The role attributed to the applicant in the FIR is that she had abused the complainant and his father and pelted stones on the Tractor. It does not appear that applicant instigated the co-accused to assault the complainant and his father. Accused no.1 had suddenly entered into the tin shed and brought an axe and assaulted the victim. The main accused were arrested and subsequently granted bail. Considering the circumstances, custodial interrogation of the applicant is not necessary. Hence, case for anticipatory bail is made out.

9

Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application No.281 of 2020, is allowed;
- (ii) In the event of arrest of Applicant in connection with C.R.No.557 of 2019, registered with Tembhurni Police Station, Solapur, he be released on bail on his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (iii) Applicant shall attend the investigating officer of concerned police station on 10th to 12th February, 2020, between 11:00 a.m. to 01:00 p.m.,;
- (iv) Applicant shall not tamper with the prosecution evidence;
- (v) Anticipatory Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)