

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

ANTICIPATORY BAIL APPLICATION NO. 25 OF 2021

Dharmendra Dattatrayasing Pardeshi,
Age 45 years, Occupation Business,
R/o. Pardeshipura, Nandurbar, Tq. &
District Nandurbar ... **Applicant.**

VERSUS

The State of Maharashtra,
Through Police Inspector,
Nandurbar City Police Station,
Nandurbar, District Nandurbar. ... **Respondent.**

...

Advocate for the Applicant : Mr. N.V. Gaware, h/f Mr. Raghuwanshi
Rahul R.

APP for the Respondent/State : Mrs. R.P. Gaur.

CORAM : MANGESH S. PATIL, J.
DATE : 11.02.2021.

PER COURT :

The applicant apprehending his arrest in connection with Crime No. 1443/2020 registered with Nandurbar Police Station, District Nandurbar, for the offences punishable under Section 392, 354, 452, 326, 325, 323, 504, 506 read with Section 34 of the Indian Penal Code is seeking bail under Section 438 of the Code of Criminal Procedure.

2. The allegations are to the effect that on 06.11.2020 when the informant was present in his shop during evening time the main accused Kundan and his wife came there with their dog. Having seen that some garbage was dumped in front of their house they questioned him as to if he had put up the garbage. They also abused him. He retorted by saying that it was dumped by other persons. Annoyed by his such reply Kundan and his

wife assaulted him. Kundan gave him a blow of iron rod on the head which he intercepted with his left hand and sustained fracture. In the meanwhile the applicant and his wife arrived there. They also abused the informant and assaulted him. With these allegations the F.I.R. was lodged and the offence was registered under Section 326, 325 etc. of the Indian Penal Code.

3. A supplementary statement of the informant was then recorded wherein he further alleged that during the course of incident accused Kundan also stole cash from the drawer of his shop. He also molested informant's wife. Even the applicant threatened them of dire consequences. Accordingly further sections 395, 354 etc. of the Indian Penal Code were included.

4. The learned advocate for the applicant would submit that it is a clear case of concoction. When the F.I.R. was lodged there were no serious allegations except attributing Kundan with isolated blow of iron rod causing fracture injury to the left hand. As an after thought allegations have been levelled even in respect of stealing of cash and molestation. Even the applicant is stated to have threatened him. Accepting these versions, considering the limited role attributable to the applicant he deserves to be granted bail as nothing is to be discovered by or recovered from him.

5. The learned advocate would further submit that in fact for the self same episode, wife of Kundan has lodged an F.I.R. on the basis of which Crime No. 1442/2020 has been registered for the similar offences which is first in point of time. It is to give a counter blast to it that the present F.I.R. has been lodged.

6. The learned A.P.P. opposes the application. She submits that the offence is still under investigation. It is a serious crime. Registration of counter F.I.R. corroborates the prosecution version about occurrence of some incident. The applicant has been specifically named in the F.I.R. as well as in the supplementary statement of the informant. Even a statement of

informant's wife has been recorded under Section 164 of the Code of Criminal Procedure. She has also attributed applicant to have molested her. Considering the gravity of the crime, custodial interrogation of the applicant becomes imperative and the application be rejected.

7. I have carefully gone through the papers. It is a matter of record that even before registration of the present crime, on an F.I.R. lodged by the wife of main accused Kundan a crime has already been registered against the informant and his wife for the similar offences.

8. Going by the allegations in the F.I.R. and the supplementary statement of the informant the incident comprises of two parts. In the first incident Kundan is stated to have assaulted the informant and stolen cash from the counter. During this episode the applicant was not present. It is then alleged that it is subsequently he arrived at the scene and assaulted Kundan. It is further alleged that he even dared them to take action as they thought fit.

9. Conspicuously, even in the statement of the wife of the informant recorded under Section 161 of the Code of Criminal Procedure she does not attribute any other role to the applicant except the one attributed to him by her husband. But in her statement under Section 164 of the Code of Criminal Procedure she has also attributed the applicant to have molested her.

10. Taking into consideration the aforementioned aspects, when no specific role is attributable to the applicant regarding assault on the informant causing him fracture injury and stealing of cash and when even the allegation against him regarding molestation has come at a belated stage, custodial interrogation of the applicant does not seem to be necessary.

11. The Application is allowed. In the event of arrest of the applicant in connection with Crime No. 1443/2020 registered with Nandurbar (City)

Police Station, District Nandurbar, for the offences punishable under Section 392, 354, 452, 326, 325, 323, 504, 506 read with Section 34 of the Indian Penal code, he shall be released on bail on his executing personal recognizance for an amount of Rs. 15,000/- and furnishing a solvent surety in the like amount, subject to the following conditions.

- (a) He shall attend the concerned police station as and when called and shall cooperate the Investigating Officer.
- (b) He shall not tamper the evidence or influence the witnesses.

(MANGESH S. PATIL, J.)

mkd/-