

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

ANTICIPATORY BAIL APPLICATION NO. 87 OF 2021

Ghanshyam s/o Eknath Ghobale,
Age 68 years, Occ. Pensioner & Agril.
R/o. Follower's Quarter, Ambejogai,
Tq. Ambejogai, Dist. Beed. ... **Applicant.**

VERSUS

The State of Maharashtra,
Through Police Station Ambejogai
(City) Dist. Beed **Respondent.**

**WITH
ANTICIPATORY BAIL APPLICATION NO. 129 OF 2021**

Vishal s/o Ghanshyam Ghobale,
Age 38 years, Occ. Advocate.
R/o. Follower's Quarter, Ambejogai,
Tq. Ambejogai, Dist. Beed. ... **Applicant.**

VERSUS

The State of Maharashtra,
Through Police Station Ambejogai
(City) Dist. Beed **Respondent.**

...
Advocate for the Applicant : Mr. Bhosale Santosh B.
APP for the Respondent/State : Mr. S.W. Mundhe.
Advocate for Assist to APP : Mr. P. N. Nagargoje.

CORAM : MANGESH S. PATIL, J.
DATE : 26.04.2021.

PER COURT :

These are the applications by a father and son duo seeking anticipatory bail in the event of their arrest in connection with Crime No.

532/2020, registered with Ambejogai (City) Police Station, District Beed, for the offences punishable under Section 452, 427, 327, 294 read with Section 34 of the Indian Penal Code.

2. The allegations are to the effect that there has been a dispute between the family of the informant and the present applicants on account of a plot of land regarding which both the sides have approached Civil Court asserting their respective possession.

3. It is alleged that on account of such dispute, the applicants committed criminal trespass in the house of the informant, ransacked the furniture, hurled abuses at the women folk present in the house and applicant Vishal is alleged to have snatched a gold Mangalsutra from around the neck of the informant. She approached the police and lodged the F.I.R. On the basis of which the offence is registered.

4. The learned advocate for the applicants submits that the applicants are being falsely implicated. There is a registered sale-deed under which they have purchased the plot. In fact the informant and her family members started carrying out illegal and unauthorized construction over a way available to approach the plot. As they obstructed it they are being implicated in a false case. The learned advocate would submit that the informant and her family members are the aggressors. A Separate F.I.R. was registered on 19.12.2020 and an offence *inter alia* under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 was registered against the informant and her family members. As a counter blast a concocted story is built up to some how implicate the applicants. One of the applicants is a pensioner. Whereas the other applicant is a practising advocate. There is no need to resort to custodial interrogation. The applicants have been granted *ad interim* anticipatory bail. There are no allegations about they having committed breach of any term or condition. They are ready to cooperate the Investigating Officer. They would be put to

disrepute if they are allowed to be arrested without assurance of bail.

5. Learned A.P.P. and the learned advocate for the informant strongly oppose the applications. They submit that the offence is serious. There was a strong motive. At this juncture there is nothing to disbelieve the contents of the F.I.R. The informant has been robbed of a gold ornament which is to be seized. Custodial interrogation of the applicants is necessary. Some witnesses also duly corroborate the prosecution version.

6. Learned advocate for the informant further informs that the Investigating officer carrying out investigation into the crime registered at the instance of the applicants inter alia for the offences under the Atrocities Act has submitted a 'B' summary report to the effect that the F.I.R. lodged is a false one. He would also submit that the applicants are indulging in unauthorized and illegal money lending business and no leniency be shown to them.

7. Having heard both the sides when this Court expressed its disinclination to grant anticipatory bail to applicant Vishal Ghanshyam Ghobale (A.B.A. No. 129/2021), his learned advocate on instructions, seeks leave to withdraw the application to his extent.

8. As far as the role being attributed to applicant Ghanshyam Eknath Ghobale, his learned advocate at the out set mentions that the applicant is being referred as Eknath Ghobale when his name is Ghanshyam Eknath Ghobale.

9. Going by the allegations in the F.I.R., the applicants are stated to have entered into the house of the informant insisting for withdrawal of the suit filed against them by her family. However, though there can be said to be a strong motive for both the applicants to enter into the house, it cannot be legitimately inferred that they were intending to rob the informant of the gold ornament. The offence of such theft of gold ornament coupled with the

offence of committing criminal trespass are the only non bailable offences. It cannot be said that there was any nexus between the two. At least there is no material to draw any such inference.

10. As far as the allegations regarding snatching of the gold Mangalsutra are concerned those are directed against applicant Vishal not against his father Ghanshyam Eknath Ghobale. It is in view of such state of affairs when the applicant Ghanshyam Eknath Ghobale is a senior citizen and pensioner and unlikely to jump bail, and when there are no allegations about he having misused the *ad interim* protection granted to him by the order dated 04.02.2021 he deserves to be granted anticipatory bail.

11. Anticipatory Bail Application No. 87/2021 is allowed. The *ad interim* anticipatory bail granted by the order dated 04.02.2021 stands confirmed with the same terms and conditions.

12. Anticipatory Bail Application No. 129/2021 is dismissed as withdrawn.

(MANGESH S. PATIL, J.)

mkd/-