

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.907 OF 2021

Noor Mohammad @ Sk. Babu s/o
Md. Yakub, Age 47 years, occ : Business,
At present Samad Plot, Parbhani,
Tq. Dist. Parbhani ... Applicant.

VERSUS

State of Maharashtra
Through the Police Station, Nanel Peth
Dist. Parbhani ... Respondent.

...
Advocate for the Applicant : Mr. R. J. Nirmal
APP for the Respondent – State : Mr. N. T. Bhagat
...

CORAM : V. G. BISHT, J.

DATE : 27th AUGUST, 2021

PER COURT :-

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No.0266/2021 registered with Nanel Peth Police Station, Parbhani, District Parbhani for the offence punishable under Sections 354 and 452 of the Indian Penal Code, 1860.

2. It is the case of the prosecution that on 27.05.2021, while the informant was alone in her house the applicant, who is her

brother-in-law entered into the house and on seeing that there was nobody, asked her to come near him. When the informant resisted the said demand of applicant, it is alleged, the applicant with an evil eye caught hold of her hand and pressed her breasts. She made commotion and started crying. The applicant then fled away.

3. Mr. R. J. Nirmal, learned counsel for the applicant, submits that the applicant has been falsely implicated because of on going dispute in respect of ancestral house property. Moreover, there is nothing to be recovered or discovered at the instance of present applicant and therefore, his custody is not necessary for the purpose of investigation. In such circumstances, the present application be allowed, urged learned counsel.

4. Mr. N. T. Bhagat, learned APP, on the other hand, opposed the submissions by contending that investigation is in progress and if the applicant is released on anticipatory bail, he would tamper the prosecution evidence.

5. If the allegations in the FIR are taken on their face value for the sake of argument to be true, would not by any stretch of imagination will justify the custodial interrogation of the applicant.

6. It also appears from the copy of an application (Exhibit 'C') filed on record by applicant that there is a dispute between the applicant and the husband of informant in respect of Legal Heirship Certificate and according to the learned counsel for the applicant because of this the applicant has been roped in the alleged offences.

7. Be that as it may, the fact remains that the nature of present case is not that of kind which necessarily requires the custody of the present applicant for the purpose of investigation and therefore, I am inclined to allow the application.

8. In view of above, I pass the following order :

ORDER

- (1) Application is allowed.
- (2) In the event of arrest of the applicant – Noor Mohammad @ Sk. Babu s/o Md. Yakub herein in connection with Crime No. 0266/2021 registered with Nanel Peth Police Station, Parbhani, District Parbhani for the offence punishable under Sections 354 and 452 of the Indian Penal Code, 1860, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs. 15,000/- [Rs. Fifteen Thousand only], with a surety in the like amount.
- (3) Application is accordingly disposed off.

(V. G. BISHT)
JUDGE