

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

ANTICIPATORY BAIL APPLICATION NO. 268 OF 2021

Abhishekh Kalyan Babar Applicant

Versus

The State of Maharashtra Respondent

Ms. Vilasini Balasubramanian i/b Mr. Jaydeep Mane , for
the applicant.

Mr. H.J. Dedhia, APP for the State/Respondent.

**CORAM: SARANG V. KOTWAL, J.
DATE : 1st March, 2021**

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R. No. 1639 of 2020 registered at Sangola Police Station, District Solapur on 28/12/2020 under sections 353, 504, 506 r/w Section 34 of the Indian Penal Code.

2. Heard Ms. Vilasini Balasubramanian, learned Counsel for the applicant and Mr. H.J. Dedhia, learned APP for the State.

3. The FIR is lodged by one Manohar Ingawale. He was working as a senior Technician with Maharashtra State Electricity Distribution Company, Medhshingi Branch. He has stated that the applicant and his brother were committing theft of electricity by putting a hook on the regular electricity supply wires. This was done unauthorisedly and therefore first informant had cautioned them from committing such theft of electricity. On 20/12/2020, the informant alongwith his associates went there for inspection. They saw that one unauthorised wire was still placed on the supply lines. He removed that wire. The applicant and his brother came there and started quarreling with the informant. They abused and threatened the informant and his associates. On this basis the FIR is lodged.

4. Learned Counsel for the applicant submitted that the main ingredients of Section 353 of the Indian Penal Code are assault and criminal force. Neither of these ingredients are made out in the FIR. She submitted

that applicants have not committed these offences. Therefore, their custodial interrogation is not necessary.

5. Learned APP opposed this application. He submitted that besides assault and criminal force, intention of the applicant will have to be seen. He further submitted that for the same incident of theft of electricity, a separate FIR is lodged at Medhshingi Police Station and therefore, leniency should not be shown to the applicant.

6. I have considered these submissions. Main incident in this case is theft of electricity for which the applicant is prosecuted. Different FIR is lodged Medhshingi Police Station for that. As far as offence under section 353 of the Indian Penal Code is concerned, the accused-applicant has not assaulted the public servant or has not used any criminal force as defined under section 349 r/w 350 of the Indian Penal Code.

7. In this view of the matter, it is doubtful whether

the ingredients of Section 353 of the Indian Penal Code are attracted in this case. In any case, for the incident which had occurred on 28/12/2020, today his custodial interrogation is not necessary. Today he can be protected by way of order under section 438 of Cr.P.C.

7. Hence the following order.

ORDER

- (i) In the event of his arrest in connection with C.R. No.1639 of 2020 registered with Sangola Police Station, District Solapur, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station as and when called and shall co-operate with the investigation.

(SARANG V. KOTWAL, J.)