

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

ANTICIPATORY BAIL APPLICATION NO. 2543 OF 2021

Prakash Dnyaneshwar Gaikwad ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Tushar Sonawane for the Applicant.

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

Mr. Paras Yadav for the Intervenor.

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CORAM : V.G.BISHT, J.

RESERVED ON : 22ND NOVEMBER, 2021

PRONOUNCED ON : 29TH NOVEMBER, , 2021

PC:-

1. The present application has been moved by the applicant under Section 438 of the Code of Criminal Procedure apprehending arrest under Sections 379 and 427 read with 34 of the Indian Penal Code (the IPC) registered vide Crime No. 330 of 2021 with Karkambh Police Station, Solapur.

2. Applicant's agriculture land is adjacent to the land of informant. A civil dispute is going on between them in

respect of agriculture land. According to prosecution, on 23rd September, 2021 at about 7.00 a.m., informant noticed that grape trees were damaged and the iron angles used in the grape garden were missing. While the informant was looking for the same, he found accused Pandurang Bhausaheb Gaikwad, Prakash Dnyaneshwar Gaikwad (applicant), Bhausaheb Dhondiba Gaikwad and Akshay Bhausaheb Gaikwad were taking the iron angles in their tractor trolley. He accordingly lodged the First Information Report (FIR).

3. Mr. Sonawane, learned Counsel for the applicant, submits that all the accused have been enlarged on bail. The dispute admittedly is of civil nature. Hence, there is no necessity of custodial interrogation and therefore, the application deserves to be allowed.

4. Mr. Dedhia, learned APP, assisted by learned Counsel for the intervenor fairly submits that the iron angles in question are duly recovered. However, since the investigation is going

on, the applicant may not be given the benefit of anticipatory bail.

5. I have gone through the FIR. The FIR itself would show that there is civil dispute in respect of agriculture land between the informant and accused. It is clear from the record that the other main accused have been enlarged on bail by the trial Court. Learned APP is also candid enough to say that the iron angles in question are duly recovered. In such circumstances, I do not find necessity of custodial interrogation. Hence, the following order :

ORDER

- i) The application is allowed.
- ii) The ad-interim protection granted by this Court vide order dated 3rd November, 2021 is confirmed and made absolute.
- iii) The application stands disposed of accordingly.

(V.G.BISHT, J.)