

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

**ANTICIPATORY BAIL APPLICATION NO.1686 OF 2021**

|                      |                 |
|----------------------|-----------------|
| Rahul Sunil Dubey    | .... Applicant  |
| versus               |                 |
| State of Maharashtra | .... Respondent |

.....

- Mr.Diwakar Dwivedi i/b. Mr.Panjak Dwivedi, Advocate for Applicant.
- Smt.Anamika Malhotra, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.**  
**DATE : 23<sup>rd</sup> JULY, 2021**  
**(Through video conferencing)**

**P.C. :**

1. The Applicant is seeking anticipatory bail in connection with C.R.No.487/2021 registered with MIDC Police Station, under sections 452, 448, 341 r/w 34 of the Indian Penal Code and under section 39 and 45 of Maharashtra Money Lending Act (Regulation), 2014.
2. The FIR is lodged by one Nilesh Mohan Panchal on 03/06/2021. He has stated that he was having weak financial status. He was earning livelihood by plying taxi with the private

companies. His sister and father were seriously ill and therefore he badly needed money. The FIR mentions that he had taken loan from the Applicant's mother to the tune of Rs.7 lakhs between 2017 to 2019. Unfortunately, he lost his sister and father in the year 2018 and 2021. In the meantime he was to return the loan amount with 5 % interest, but he was not able to repay. Therefore he sought financial help from his relatives, and, in all, returned Rs.2,10,000/-. However, the Applicant's mother was demanding Rs.44,00,000/-. In the meantime, lockdown was imposed and his financial condition became worse.

3. In January 2021 he had gone to his sister's place at Ambernath. He was telephonically informed by his neighbours on 25/01/2021, that the Applicant's mother had entered into his house and had taken illegal possession. The informed immediately rushed to his house to find the Applicant's mother and four other women inside the house. He requested them to leave, but the Applicant's mother told him that unless Rs.44,00,000/- were paid by him, possession of that house

would not be given to him. He was abused and threatened. On this basis FIR is lodged. Interestingly, the FIR mentions that the informant had sent a notice through lawyer to the Applicant's mother on 19/01/2021 itself asking her to vacate that property.

4. Heard Mr.Diwakar Dwivedi, learned counsel for the Applicant and Smt.Anamika Malhotra, learned APP for the State.
5. Learned counsel for the Applicant submitted that the in the entire FIR, the dispute mentioned is between the Applicant's mother and the informant. The Applicant himself had nothing to do with the dispute. He is 21 years old boy and is merely residing with his family. From the allegations it is not clear that the Applicant played any role in trespassing on that property. He submitted that the FIR itself mentions that the informant had sent a notice on 19/01/2021. But according to the informant's own case, he came to know about taking over of the possession by the Applicant's mother and others on 25/01/2021. This shows that the real dispute was something else. The informant has lodged false FIR.

6. Learned APP opposed this application, based on the averments made in the FIR. She submitted that the Applicant being son of the main accused, should not be protected by anticipatory bail.

7. I have considered these submissions. As rightly submitted by learned counsel for the Applicant, the allegations are directed towards the Applicant's mother. The Applicant is a young boy. He is 21 year old. He has nothing to do with either lending of the money or with the taking over of the possession of that particular premises. He is residing with his parents which is not unusual. There is another angle in respect of purported notice sent by the informant. This notice in the FIR shows that it was sent prior to 25/01/2021 when the informant supposedly came to know of taking over of the possession by the Applicant's mother. This is also a doubtful circumstance. In this view of the matter, the Applicant's custodial interrogation is not necessary. He can be protected by an order of anticipatory bail.

8. Hence, the following order :

**ORDER**

- (i) In the event of his arrest in connection with C.R.No.487/2021 registered with MIDC Police Station, 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 cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**