

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2965 OF 2021**

Kisan Maruti Jori ... Applicant
Versus
The State of Maharashtra ... Respondent

Mr. Satyavrat Joshi i/b Mr. Nitesh J. Mohite, for the Applicant.
Smt. P. P. Shinde, APP, for the State-Respondent.
Mr. Anand S. Shalgaonkar, for Intervenor.
Mr. Deepak S. Gaikwad, attached to Haveli Police Station present.

CORAM : V. G. BISHT, J.

DATE : 17th December, 2021.

PC:

Heard.

2 The informant owns 20 guntha of land at village Khartar, Taluka-Haveli, District -Pune. The applicant is cultivating the said land since last 8 to 10 years . A civil dispute in respect of said land is pending in the civil Court.

3 On 16/05/2021 at about 11-00 a.m. the informant and his wife

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were standing in front of his father-in-law's house . Two motorcycles came. There were six person. One of them was applicant. Others two were his sons and remaining three were unknown persons. Prosecution alleges that the applicant then asked informant why he is complaining against them with MSEB and because of that they have suffered a lot and immediately thereafter gave a blow of iron rod on the head of informant. The two sons of the applicant and three unknown persons also assaulted the informant by means of sickle and stick. The informant was then rushed to the hospital. Later on, he lodged the report.

4 Mr.Joshi, learned Counsel for the applicant, invited my attention to the statements of prosecution witnesses, namely, Madhukar Rambhau Shelke, Mohan Bhau Jorkar, Mohan Keshav Shelke and Smt. Manda Mohan Shelke and would submit that all these witnesses have clearly stated in their respective statements that the informant and his sons had not assaulted the informant but those were four unknown persons. Learned Counsel also invited my attention to the supplementary statement given by informant on 23/06/2021 and pointed out the relevant portion therefrom and then impressed upon me that the said statement is quite inconsistent with his own FIR filed on 16/05/2021. In view of this, according to learned Counsel, the applicant deserves to

be protected under Section 438 of the Code of Criminal Procedure.

5 Smt. Shinde, learned APP, assisted by learned Counsel for the intervenor, submits that the informant was assaulted by means of iron rod and sustained severe injuries. Learned APP also invited my attention to the medical certificate. Learned APP further submits that the complaint was also filed by informant against the applicant with Assistant Engineer (Electrical), Mahavitaran, Branch Khanapur, in respect of illegal electricity connection taken by him. Thus, there being no merit in the application, the same is liable to be rejected, argued learned APP.

6 Perused the investigation papers. I have gone through the statements of witnesses as pointed out by the learned Counsel for applicant. Similarly, I have also gone through the supplementary statement of the informant.

7 From the FIR I find that a very specific allegation is made against the present applicant by the informant. According to him, applicant had given a blow of iron rod on his head and his two sons and three unknown persons had assaulted by means of sickle and stick. As against

this, there are various statements of prosecution witnesses as pointed out by learned Counsel for the applicant.

8 First such statement is that of Madhukar Rambhau Shelke. This witness had witnessed the incident. According to him, applicant and his sons, namely, Yuvraj Kisan Jori and Dhanraj Kisan Jori, whom he knows well, had not assaulted the informant. According to this witness, the assailants were four unknown persons in the age group of 20 to 25 years. Similar is the statements of Mohan Bhau Jorkar, Mohan Keshav Shelke and Mrs. Manda Mohan Shelke. Needless to say, all these witnesses have unequivocally stated that the assailants were some other unknown persons than the applicant and his two sons, as the informant has alleged in the FIR. Even the informant is also not lagging behind.

9 On 23/06/2021 a supplementary statement of informant was recorded wherein he also clearly stated that on 16/05/2021 the sons of applicant, namely, Yuvraj Kisan Jori and Dhanraj Kisan Jori along with four unknown boys had come. Those unknown boys told him as to why he complained with MSEB against the applicant. His statement further shows that the sons of applicant told that his father had sent them to kill him and thereafter, they assaulted him by means of sickle, iron rod and

stick on his head, back and other parts of the body.

10 Interestingly, the informant clearly excludes the role of applicant in his supplementary statement and nowhere says that the applicant was also one of the assailant. In view of this, in my considered opinion, the application deserves to be allowed.

ORDER

(i) In the event of arrest of the applicant-accused Kisan Maruti Jori in C.R.No. 119 of 2021 registered with Haveli Police Station, Pune, for the offences punishable under sections 307, 143, 147, 148, 149, 504, 506 of Indian Penal Code and Section 4, 27 of the Indian Arms Act, he be enlarged on bail on his furnishing PR & SB in the sum of Rs.15,000/- with one or two sureties.

(ii) The applicant-accused shall not tamper the prosecution evidence.

(iii) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V. G. BISHT, J.)