

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 ANTICIPATORY BAIL APPLICATION NO.13 OF 2022

SACHIN KISHOR KHAIRE

VERSUS

THE STATE OF MAHARASHTRA

...

Mrs. A.N. Ansari, Advocate for the applicant

Mr. N.T. Bhagat, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 01st FEBRUARY, 2022.

ORDER :

1 Applicant is apprehending his arrest in connection with Crime No.404/2021 dated 04.12.2021 registered with Gondli Police Station, Dist. Jalna, for the offence punishable under Section 327, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mrs. A.N. Ansari for the applicant and learned APP Mr. N.T. Bhagat for the respondent.

3 It has been vehemently submitted on behalf of the applicant that the applicant has been falsely implicated. There is civil dispute between the

informant and the applicant and the applicant is now cultivating the land. They are also relatives of each other but without due process of law the informant intends to take the possession and, therefore, this is an attempt to pressurize him. The applicant had also filed criminal complaints against the informant and, therefore, taking into consideration the allegations the physical custody of the applicant is not required. He was granted interim protection by this Court on 11.01.2022, that deserves to be confirmed. He has abided by the terms of the bail.

4 Learned APP strongly objects the application submitting that Section 327 of the Indian Penal Code may not be attracted, taking into consideration the allegations that the present applicant successfully taken away amount of Rs.60,000/- by causing hurt to the informant and in that event Section 390 of the Indian Penal Code would get attracted, which is more serious in nature. That amount is required to be recovered from the applicant and, therefore, custodial interrogation is necessary.

5 It appears that the informant and the present applicant are relatives. Prior to the First Information Report the present applicant had filed Regular Civil Suit No.165/2021 before Civil Judge Senior Division, Ambad, Dist. Jalna for the injunction. Application under Order 39 Rule 1 and 2 of the Code of Civil Procedure appears to have been given, on which notices were

issued and the matter is pending. It also appears that the disputes had reached the Police Station earlier from the side of the applicant in the form of non cognizable offence of giving threats. Perusal of that would show that the applicant and his family members contend that since last about 30 years they are cultivating the suit land i.e. the land which the informant states that it is belongs to her. In the First Information Report also the informant states that during the lifetime of her mother she had given the two pieces of land for cultivation to the applicant, however, the First Information Report is silent as to since when the applicant was given those lands. According to the informant, after the demise of her mother the applicant has not given her any income from the land. Again the First Information Report is silent, as to when her mother expired and since when she herself started cultivating those lands. Definitely, it appears that there is civil angle to the dispute. Now, as regards the alleged incident dated 02.12.2021 is concerned, apart from the allegations of causing hurt as against the present applicant, she states that he had snatched away cash amount of Rs.60,000/- from her purse. It is to be noted that she has not given the place where she had kept the purse and whether she has produced any documentary evidence to show that she was carrying such amount of cash with her on that date.

6 Taking into consideration the civil suit filed by the applicant, in which it appears that there is notice issued by the Civil Court, against the informant and also the earlier complaint applications, the applicant is contending that he has been falsely implicated. At present there appears to be no attempt on the part of the Investigating Officer to add Section 390 of the Indian Penal Code and, therefore, unless it is shown that the informant was having that much amount with her, it cannot be said that, that amount was stolen or taken away forcibly. The applicant has abided by the terms of interim protection and, therefore, that deserves to be confirmed.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicant vide order dated 11.01.2022, is hereby confirmed and made absolute. In other words, if the applicant is not formally arrested, in the event of arrest of the applicant viz. Sachin Kishor Khaire, in connection with Crime No.404 of 2021 dated 04.12.2021, registered with Gondi Police Station, Dist. Jalna, for the offence punishable under Section 327, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860, he be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) with two solvent sureties

of Rs.15,000/- (Rupees Fifteen Thousand only) each.

3 The applicant shall not indulge in any criminal activity nor he should tamper with the evidence of the prosecution, in any manner.

4 Applicant shall cooperate with the investigation and shall attend Police Station, Gondi on every Wednesday between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

(Smt. Vibha Kankanwadi, J.)

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