

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.578 OF 2022

**SWAPNIL ROHIDAS SHINDE
VERSUS
THE STATE OF MAHARASHTRA**

WITH

ANTICIPATORY BAIL APPLICATION NO.502 OF 2022

**1. SACHIN ROHIDAS SHINDE
2. ANIL NARAYAN DHAVAN
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicants : Mr. Chatterji Joydeep, Mr. Naik
Thigle G. K., respectively.

APP for Respondent-State : Mr. V. S. Badakh.

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**CORAM : S. G. MEHARE, J.
DATE : 17.06.2022**

PER COURT :-

1. Heard the respective learned counsels for the applicants and learned APP for the respondent-State.

2. The applicant Swapnil Rohidas Shinde is Ex Municipal Corporator. Applicant Sachin Rohidas Shinde is the brother of applicant Swapnil Rohidas Shinde. Applicant Anil Narayan Dhavan was allegedly present with applicant Sachin at the time of the alleged incident. The vehement argument of the respective learned counsels is that the dispute pertains to the

boundary of the plots. The complainant has filed the civil suit before lodging the report seeking an injunction against applicant Swapnil Shinde and one Sandip Vasant Borude, the owner of the adjoining plot owned by the complainant. The complainant could not get success in the Civil suit. Therefore, the complainant cooked a false story with an allegation of extracting Rs.50,00,000/- and giving them threats to kill. There is an inordinate delay in lodging the FIR. Applicant Swapnil is a political person; hence various false complaints were registered against him. He has already made representation to the Special I. G., Nashik Region, for harassing him by lodging the false complaint. In a few of the cases, he has been acquitted. He is a political figure, and as per the recent trend, false cases are registered against him also. The applicant/accused has not suppressed his antecedents. He is a political figure, hence his false implication is highly probable. They have referred to the various documents like the complaint, the written statements, sale deeds, and newspaper published notice. It is a specific case of applicant Swapnil that he has an agreement in the name of his brother with one Sandip, who has his land in the same field, in which the applicant also has nine (9) Gunthas of land. At no point in time the complainant was threatened and asked to pay

Rs.50,00,000/- if he wanted to protect his plot. When Sandip purchased the property from his earlier owner, it was fenced with stones. Therefore, there is no question about claiming any right over the land of the complainant. The allegations levelled in the FIR *prima facie* do not prove the offence punishable under Section 386, and in the worst case, it is not more than an attempt to extort. The applicants are law abiding persons. They are ready to co-operate with the investigation. Hence, they may be enlarged on anticipatory bail, and the interim relief granted in favour of the applicant Sachin Shinde and Anil Dhavan may kindly be confirmed.

3. Learned APP has strongly opposed the application stating that nowadays, threatening the poor at the hands of the political leader and putting the property of a common man in danger is routine. Many political leaders were involved in the property dispute and put the poor under threat. The applicants have no right over the property possessed and owned by Sandip, and an agreement to sell does not create in the land. They have no right to fix the board with the name of applicant Swapnil Shinde. The nearby owners of the land have already lodged the reports against Swapnil for threatening them. There are antecedents at the discredit of applicant Swapnil. The

allegations of assault the complainant and his relatives have been specifically made in the report in the absence of family right. They have no right to enter into the fields of others and cause the disturbance to their possession. Such types of activities can be only controlled if such anti-social elements are not released on anticipatory bail. Hence, the applications may kindly be dismissed.

4. The arguments advanced by the respective counsels reveal that the land owner of the field Survey No.170 has sold the land in pieces to the different persons. There is no dispute that 14 R. of land arising out of the same field was sold by the original land owner to one Gore which Sandip Vasantrao Borude subsequently purchased. It is a pleading in the suit filed by the complainant and his sister that the owner Sandip Borude has agreed to sell his land to Swapnil Shinde forever. However, he threatened him that he should not start a nursery business and should make no change in the Revenue Record. This was the incident dated 09.12.2021. The complainant has filed the injunction suit on 15.12.2021. Thereafter, the present crime was registered against the applicants on 02.04.2022. In the FIR, there is no reference to the Civil suit filed by the complainant against the applicant Swapnil Shinde. However, it

is alleged that the incident took place on 31.12.2021 and that time few people along with the applicants went on the land owned by the complainant, and, the board in the name of Swapnil Shinde was affixed there, so he made an inquiry why and how the said board was affixed. It has been alleged that the said board was fixed in the land owned by the complainant. The allegations have been made any addition to the above that he was abused, and the amount of Rs.50,00,000/- was demanded. He was threatened that if he did not pay the money, he would not allow him to enter in his name though it is in his name. Apparently, the complainant did not lodge a report immediately after the first cause of action dated 09.12.2021. He has filed a Civil Suit seeking an injunction against Swapnil and the owner of the land who agreed to a sale to him his land, restraining them from causing the disturbance to the plot. No doubt, there are incidents nowadays there are various complaints of political interference in property dealings. But the facts should be ascertained from the allegations and material brought before the Court. Here in the case, the applicant/accused have turned to a criminal action after opening the civil dispute. No doubt, there is no bar to seeking criminal as well as civil actions against the wrongdoers simultaneously. However, in such cases, there

should be some consistency in the allegations. The learned counsels for the applicants have pointed out the contradictory stand taken by the complainant in a civil suit and the report.

5. Be that as it may, after having gone through the entire papers filed by the applicants and the learned prosecutor, it appears that the dispute pertains to the boundary. The applicants never denied the ownership of the complainant. So far as giving possession of the land owned by Sandip Borude to the applicant Swapnil or his brother, it is their matter of interest. The legality of the transaction is not questioned before the Court. Here is only the factum of the alleged crime to be examined for granting or declining the bail. The dispute was regarding the causing disturbance to the possession of the complainant over the land at the hands of the applicant Swapnil, and the true owner of the part of land arising out of the same Survey number was raised. The possibility of implicating falsely in the crime can also not be ruled out. After going through the FIR, it does not reveal that the custodial interrogation of the accused / applicant serves the purpose. There were simple allegations about the threat, which do not require custodial interrogation. Having regard to the oral factum of the case, this Court is satisfied that this is a fit case to

grant anticipatory bail. Further, to protect the property and interest of the adjoining land owner, some stringent conditions may be imposed upon the applicants. Hence, the following order :

ORDER

- (i) The applications are allowed.
- (ii) The order granting interim protection in Anticipatory Bail Application No.502 of 2022 and 578 of 2022 to the applicants stands confirmed with the same bail conditions. However, the applicants shall attend the concerned Police Station as and when called by the Investigating Officer. They shall not tamper with the prosecution witnesses.
- (iii) The applicant Swapnil Rohidas Shinde being involved in the politics and being a former Corporator shall not misuse his political connections to pressurize the peace loving applicants and shall take care that he should not be involved in such type of cases. The applicants to follow these conditions strictly.

(iv) *Humdast* allowed.

(S. G. MEHARE, J.)

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