

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

907 ANTICIPATORY BAIL APPLICATION NO.718 OF 2022

**GORAKH JAGANNATH DALVI
VERSUS
THE STATE OF MAHARASHTRA**

Advocate for Applicant : Ms. Vaishali B Dolas and Mr. Bhosale
Mahesh Kalidas

APP for Respondent State: Mrs. V. S. Chaudhri
Advocate assists to PP: Mr. K. N. Shermale

CORAM : S. G. MEHARE, J.

DATE : 3rd AUGUST, 2022

ORDER:

1. Heard learned counsel for the applicant, learned APP and learned counsel assisting him.
2. The applicant and complainant are cousin brothers. It has been alleged against the applicant that he had constructed a house on *pot kharab* common land. On 29th April, 2022, when the complainant asked the applicant why he was constructing house in pot kharab land, he abused him in filthy language and threatened. On 30th April, 2022, the applicant was walking in a midway and therefore, the complainant blew horn of his Car. The applicant got annoyed because of blow of horn and started abusing the complainant. Thereafter, he gave him a fist blow and pulled him out from his car. He assaulted the complainant with stone, that caused bleeding injury. Thereafter, he brought a spade and hit on his head, the complainant avoided the assault but that caused fractured injury to his hand.
3. The learned counsel for the applicant has argued that the applicant is a elected member of cooperative society and village

panchayat and at the relevant time, there was a society election and therefore, out of the political rivalry, a false report has been lodged. There is seven days delay in lodging the report. Five cases were registered against him. However, in three cases he has been acquitted. The applicant never breached the conditions imposed by this Court to attend the police station. He has explained that the police did not serve a notice upon him. Signature of his wife was obtained and she was orally told that they have to maintain the peace. The applicant was never served with the notice and therefore, he had no knowledge that he was called to the police station by the Investigating officer.

4. The learned counsel for the applicant has vehemently argued that the applicant has committed no offence as alleged. He is ready to attend the police and cooperate with the investigation. The applicant was on interim protection as per the order of the learned Sessions court and thereafter as per the order of this Court. Therefore, no purpose would be served, if he is sent to the police custody.

5. Learned APP has referred to the injury certificate and argued that the spade which has been used to commit the crime has not been seized. The Investigating officer had served a notice calling upon the applicant to remain present for investigation purpose. The applicant had knowledge about the said notice but he disobeyed. The applicant did not cooperate with the investigation. There are antecedents to his discredit. He has been repeatedly involved in serious crimes. The fracture injury has been caused to the complainant. There are eye witnesses to the incident. For the purpose of recovery of the weapon, custodial interrogation of the applicant is essential.

6. Learned counsel for the complainant Mr. Shermale has argued that after the applicant was released on interim bail, he has threatened the complainant. For about six days the complainant was hospitalized

and had undergone the surgery. Therefore, report could not be lodged immediately. He relied on the case of **Nasiruddin Vs. State (NCT) Delhi, and others, 2014 (5) SCC(Cri) 773** and order passed by this Court in Anticipatory Bail Application No.1308/2021 (Janardhan Kamlakar Nawale Vs. State of Maharashtra) dated 24th February, 2022. Relying on these case laws, he has vehemently argued that the applicant has no case for anticipatory bail. He has also referred to representation made by villagers against the applicant dated 1st June, 2018. He has tried to point out that the applicant has no good reputation and he is very much aggressive and therefore village women have made representation to the Superintendent of Police for taking action against aggressive activities of the applicant. He prayed to reject the application.

7. Specific allegations have been levelled against the applicant that he assaulted the complainant on his hand. Medical report and X-ray reports show that the complainant has suffered a fracture and he was hospitalized. Prima faice material placed on record by the prosecution indicates that the applicant did not respond to the notice of the police served on his wife. Grievous injury has been suffered by the injured. There are antecedents to the discredit of the applicant. Village women are also not seen happy with the conduct of the applicant. The weapon spade has been used in the crime. It's recovery is essential.

8. Considering overall facts of the case and allegations levelled against the applicant, this court is of the view that this is not a fit case for anticipatory bail. Hence the application stands dismissed.

(S. G. MEHARE, J.)