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

ANTICIPATORY BAIL APPLICATION NO.776 OF 2022

**SATISH NARAYAN SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr Dhananjay A. Mane, Advocate holding for Mr. Umesh Bodkhe
Patil, Advocate for applicant;
Mr K. S. Patil, A.P.P. for respondent No.1/State;
Mr M. V. Nagargoje, Advocate for respondent No.2

CORAM : S. G. MEHARE, J.

DATE : 2nd August, 2022

PC.

1. Heard the learned counsel for the applicant and the learned APP for respondent No.1/State along with learned counsel for the respondent No.2.

2. This Court has discussed the facts in detail in order dated 22.07.2022. Therefore, in order to maintain the brevity, those are not reproduced. However, in nut-shell, the applicant has a case that the applicant had filed civil suit against the owner of the land and decrees have been passed against him. The applicant is in possession of the suit land. However, one Tuljiram has been introduced as a purchaser and he started disturbing the possession of the applicant. He brought around 30 to 40 persons on his field and they damaged the building

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and removed agricultural implements. The report of the said incident was lodged on 22.10.2020. One more suit was filed. However, to pressure the applicant a false report has been lodged making an allegation of outraging modesty of a woman and a minor child. The complainant has realized the mistake and then she gave a correct statement to the police. The police were about to file "B" summary, but the Investigating Officer changed and the matter could not be progressed in proper perspective. He has referred to the documents placed on record and would submit that since the offence is false and nothing is to be recovered from the applicant, the interim protection granted to the applicant may kindly be confirmed.

3. The learned APP has strongly opposed the application. He would referred to the statements of the eye witnesses. He has also referred to the statement of the victim as also her statement under Section 164 of the Code of Criminal Procedure. The Court is not satisfied that those two persons are the witnesses to the incident. They learnt about outraging the modesty of the woman from the father of the victim and his wife. Recording the statement under Section 164 of the Cr.PC. is a rule in the case under the Protection of Children from Sexual Offences Act, 2012. It is a replica of the statement of the victim. The question is whether the custodial

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interrogation of the applicant is required and whether there are circumstances to believe the applicant.

4. It is not in dispute that the applicant had a civil dispute with the original landlord. The decrees have been passed against him. *Prima facie*, the applicant has a good case to believe that he was in possession of the suit land. The victim is the daughter of the labour engaged by the original landlord. The possibility of making them scapegoat for the benefit of the landlord and so-called purchasers of the land, cannot be ruled out. There are absolutely no allegations that the weapon has been used by the applicant. The overall scenario reveals that the prosecution has no case for custodial interrogation of the applicant. The applicant has a good case for anticipatory bail. Hence, the following order :-

- i) The application is allowed.
- ii) The interim protection granted to the applicant by order dated 22.07.2022 is confirmed on the same terms and conditions.

(S. G. MEHARE, J.)

amj