

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
ANTICIPATORY BAIL APPLICATION NO.912 OF 2022**

VIJAY BABASAHEB LAMBE

..APPLICANT

VERSUS

THE STATE OF MAHARASHTRA

..RESPONDENT

...

Mr. Rahul R. Karpe, Advocate for the Applicant.

Mr. K. S. Patil, APP for Respondents-State.

...

CORAM : S. G. MEHARE, J.

DATED : 29th JULY, 2022.

PER COURT:-

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The prosecution has a case that the applicant and the first informant are relatives. The partition suit between them is pending in the Court of law. Some N.Cs. were registered against the complainant before the alleged incident. Two incidents as such happened. The false allegations of attempting to kill the complainant with his own tractor have been levelled against the applicant to make the offence serious. The complainant might have cashed the situation against the applicant since his vehicle was damaged. It might have been damaged due to his acts.

3. The learned counsel for the applicant would submit that the incident happened in the early hours of the day at 03.00 am, as alleged. He argued that it had been alleged that the complainant was holding a sword and he broke the

window glasses it is surprising that only the complainant came out of the house. The tractor could not start unless it was ignited. The tractor's key was not with the applicant. Therefore, the story of attempting to kill the complainant with a tractor appears false. No injuries have been sustained to the applicant. Therefore, no offence as alleged is made out. Considering the allegations, custodial interrogation of the applicant is not essential.

4. The learned APP has opposed the application. He would submit that the applicant entered the property of the complainant and broke the window glasses. He was armed with a sword. The present applicant was most aggressive and was trying to kill the complainant by running a tractor over the complainant. He has produced some photographs for reference showing that the tin shed's cement pillars have been totally damaged and the four-wheeled car has also been damaged. He has also referred to the spot panchanama. On the basis of the material supplied to him by the investigating officer, he has vehemently argued that the applicant was about to kill the complainant with the tractor that was stationary in the compound of the complainant. Therefore, the applicant is not entitled to anticipatory bail.

5. Perused the FIR and papers placed before the Court. It is not in dispute that the parties are fighting for the property in the Court of law. In view of the allegations discussed in the above

paragraphs, there appears substance in the argument of the learned counsel for the applicant that the allegation of attempting to run the tractor over the complainant is impossible since a tractor could not be run until a person ignites it. The tractor requires a key to ignite and start, and there is no material that the key was left attached to the tractor. Besides this, the prosecution has a case that the applicant was armed with a sword, but neither the injuries were caused, nor it is alleged that the applicant attempted to kill the complainant with a sword.

6. Considering the argument of the learned counsel for the applicant and the facts of the case and in the absence of any injury caused to the applicant and doubt on the allegations of attempting to run a tractor over the complainant, this Court is of the view that this is a fit case for anticipatory bail. Hence, the following order:

ORDER

a. The application is allowed.

b. In the event of arrest, the applicant, Vijay S/o Babasaheb Lambe, be released on anticipatory bail, on executing P.B. and S.B. of Rs.20,000/- (Twenty Thousand) with one solvent surety in the like amount in Crime No.0418/2022, registered with Rahuri Police Station, District Ahmednagar for offences punishable under Sections 307, 323, 504, 506 and 427 of the Indian Penal Code r/w Section 4/25 of Arms Act, on the condition that he shall

attend the police station as and when called by the Investigating Officer on written notice and shall not tamper with the prosecution witnesses.

(S. G. MEHARE, J.)

Devendra/July-2022