

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

ANTICIPATORY BAIL APPLICATION NO. 1308 OF 2021

Janardhan S/o Kamlakar Nawale ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. K. N. Shermale, Advocate for applicant

Mr. R. B. Bagul, APP for respondent - State

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CORAM : R. G. AVACHAT, J.

DATED : 24th FEBRUARY, 2022

ORDER :-

. This is an application for anticipatory bail. The applicant claims to have apprehension of arrest in connection with Crime No.0374/2021, registered with Akole Police Station, Taluka Akole, District Ahmednagar, for the offences punishable under Sections 326, 323, 504, 506 read with 34 of Indian Penal Code (IPC).

2. The First Information Report (FIR) was lodged on 25.09.2021. It has been averred in the FIR that the informant has four flats in 'Shreya Residency'. The flats have been let out on rent. The informant would visit 'Shreya Residency' for receiving rent each month. The informant also constructed a building 'Sai Residency'.

The construction work thereof was given to the applicant herein. There was some oral wrangle between him and the applicant over the work of construction.

It is further alleged that the informant had been to 'Shreya Residency' on 25.02.2021 by 5.00 p.m. His friend Ramesh and a wire-man of the Maharashtra State Electricity Distribution Company Limited, had accompanied him. Electricity supply of his flat was disconnected. He had been there to reconnect the same. The informant and the wire-man were engaged in reconnecting the electricity supply wires. The applicant came there and pulled the electricity supply wire from the meter. The informant asked him not to do so. The applicant, thereupon, abused and manhandled the informant and left. The informant contacted his brother on cellphone to report of the incident. The applicant came in a while with an iron rod. He assaulted the informant on the right wrist and waist with the iron rod. The informant's friend rescued him. The applicant abused and gave threats to the life of the informant.

3. Heard.

Learned Advocate for the applicant would submit that no incident as alleged in the FIR did take place. There was an

agreement executed between the applicant and the father of the informant for development of a land. Some flats were allotted to the father of the informant. There was a dispute between the applicant and the informant over the construction. One Police Officer, by name Wagh, is instrumental to get the FIR registered against the applicant at the instance of the informant. The Police Officer Wagh was caught accepting a bribe. The applicant herein was complainant in the said case. Since then, the police officer has been harassing the applicant. He has ensured that number of crimes were registered against the applicant herein. According to the learned Advocate, the investigation of the crime might have been over. The informant had not been admitted to hospital. The certificate regarding fracture of the wrist was issued by a private hospital. The applicant is ready to abide by any conditions the Court may like to impose. He, therefore, urged for grant of anticipatory bail to the applicant.

4. The learned APP would, on the other hand, submit that the applicant has criminal antecedents. Number of crimes have been registered against him. Proceedings for his externment have also been initiated. Medico legal certificate has been issued by the Government Hospital. The X-ray film does indicate the informant to

have wrist fracture. As such, serious offence punishable under Section 326 IPC has *prima-facie* been made out against the applicant. He, therefore, urged for rejection of the application.

5. Considered the submissions advanced. Perused the FIR and the documents relied on.

The FIR has been lodged within three hours of the incident. The informant was medically screened at Rural Hospital, Akole. The injury certificate indicates him to have suffered grievous injury. The prosecution was asked to produce X-ray film. It was accordingly produced. The learned Advocate for the applicant also perused the same. He did not dispute that the X-ray film does indicate fracture of right wrist. The statement of the person who had accompanied the informant while the incident took place, reinforce the allegations in the FIR.

True, name of the wire-man has not been disclosed. It is also true that at the instance of the applicant, Police Officer Shri Wagh was caught accepting a bribe. The applicant has therefore every reason to contend that whatever crimes have been registered against him, were at the behest of Shri Wagh. The fact however remains that the informant has four flats in 'Shreya Residency'. He

had been to 'Shreya Residency' on the given day for reconnecting electricity supply. The applicant had made construction of the said building. It was natural for him to be there. The FIR was lodged within hours of the incident. The X-ray film does indicate the informant to have suffered fracture as a result of assault with an iron rod.

6. As such, *prima-facie*, serious offence is made out against the applicant herein. It is, therefore, not desirable to grant him anticipatory bail.

7. The application is therefore, rejected.

8. On the request of learned Advocate for the applicant, interim protection to continue for four weeks.

[R. G. AVACHAT, J.]

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