

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**ANTICIPATORY BAIL APPLICATION NO.642 OF 2020
WITH
INTERIM APPLICATION NO.1174 OF 2020**

Swapnil Bhausaheb Modak

...Applicant

vs.

The State of Maharashtra

...Respondent

VISHAL
SUBHASH
PAREKAR

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VISHAL SUBHASH
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Mr. Subhash Jha a/w. Mr. Siddharth Jha, Mr. Dwivendra Dubey, Ms. Alka Pandey i/b. Law Global Advocates, for the Applicant

Ms. M.R. Tidke, APP for the State.

Mr. Kuldeep Pawar i/b. Mr. Sujay Gangal, for the original complainant.

CORAM : N. J. JAMADAR, J.

DATE : JUNE 17, 2022

P.C.:

1. This application is for pre-arrest bail in connection with C.R. No.131 of 2020 registered with Loni-Kalbhor police station, Pune for the offences punishable under sections 327, 354, 447, 143, 147, 149, 323, 504, 506 and 427 of the Indian Penal Code, 1860.

2. By an order dated 15th April, 2020 this Court had granted interim protection to the applicant and ordered that the applicant shall not be arrested in C.R.No. 131 of 2020.

3. Heard the learned counsel for the parties.

4. The learned counsel for the applicant urged that the crime has its genesis in the civil dispute between the parties wherein the proprietary and possessory title over the land i.e. Gut No. 237/1/1

situated at Uruli Devachi, Tal. Haveli, Dist. Pune are being contested.

5. The learned counsel placed reliance on the record of right of the said land and the order passed by the Civil Court on an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908 on 31st October, 2018 whereby the application of the first informant for temporary injunction.

6. The question as to whether the first informant and the members of the first informant party are in possession of the subject premises appears to be in contest. Evidently, the Civil Court has not found the case of the first informant worthy of consideration for grant of temporary injunction. The occurrence which is alleged to have taken place when the first informant allegedly resisted the act of the applicant and his associates who were trying to establish possession over the said premises is required to be considered in the aforesaid context of civil dispute and outcome of the proceedings.

7. It is true that the allegations in the first information report are of assaulting to the wife of the first informant and relieving her of gold marriage string and other property. Nonetheless, in the backdrop of the nature of dispute, at this length of time, the custodial interrogation of the applicant does not seem warranted.

The applicant appears to have roots in the society. The possibility of fleeing away from the justice seems remote.

8. In the aforesaid circumstances, especially the fact that the applicant is protected since 15th April, 2020, I am persuaded to allow the application. Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] In the event of arrest in C.R. No. 131 of 2020 registered with Loni Kalbhor police station the applicant Swapnil Bhausahab Modak be released on bail on executing a P.R. bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- 3] The applicant shall regularly attend the proceeding before the jurisdictional Court.
- 4] The applicant shall cooperate with the investigation and report the investigating officer as and when directed.
- 5] The applicant shall not tamper with the prosecution evidence and give threat or inducement to any of the prosecution witnesses.

(N. J. JAMADAR, J.)