

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1730 OF 2022

Laxman Namdeo Gajare ... Applicant

Versus

State of Maharashtra and another ... Respondents

.....

Mr. Nitin Gaware Patil for the Applicant.

Mr. P.H. Gaikwad Patil, APP for the State.

Mr. Nikhil Wadikar alongwith Mr. Pradip Zende instructed by Mr. Nandu Pawar for Respondent No.2.

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CORAM : N.R. BORKAR, J.

DATED : 15 DECEMBER 2022

P.C. :-

. This is an application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail.

2. On 4 July 2022, this Court passed the following order :

“1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This is an application for pre-arrest bail in connection with CR No.234 of 2022 registered with Shirur Police Station (Rural), District Pune, for the offences punishable under Sections 307, 337, 324, 323, 504 and 506 of the Indian Penal Code, 1860 (“the Penal Code”).

3. Namdeo Gaikwad (the first informant) lodged report with the allegations that there is a dispute with the applicant, who is adjacent landholder, over the boundary of the land. The applicant has committed encroachment over the land of

the nephew of the first informant in respect of which proceedings are pending before the jurisdictional Court. On 1st April, 2020, the applicant was uprooting sugarcane crop from the land of the first informant bearing Gat No.761. When the first informant resisted the applicant, the applicant allegedly assaulted the first informant by means of spade. When Latabai, the wife of the first informant, came to his rescue, the applicant allegedly assaulted Latabai as well.

4. In the backdrop of the nature of the accusation and the charge of the offence punishable under Section 307 of the Penal Code, the learned APP was directed to place copies of the injury certificates.

5. I have perused the injury certificate. The first informant has sustained 'blunt trauma' to face, left upper lip, with CLW. The injury has been designated grievous. The Medical Officer has, however, noted that the said injury was reported to have been caused by sudden single blow of stone. Likewise, Latabai, the wife of the first informant, had sustained blunt trauma on head and left middle finger. The weapon of assault is again a stone.

6. In the aforesaid view of the matter, prima facie, the question as to whether spade was used to cause hurt to the first informant and the injured warrants consideration.

7. Mr. Wadikar, the learned Counsel, submits that he has instructions to appear on behalf of the first informant. The learned Counsel seeks time to work out the matter.

8. In view of the aforesaid nature of the accusation and the circumstances adverted to above and the fact that the applicant is stated to be above 80 years of age, I am persuaded to grant interim protection.

9. Hence, the following order:

: O R D E R :

(i) The applicant shall amend the application to implead the first informant as party respondent no.2. Amendment be carried out forthwith.

(ii) Issue notice to the respondents.

(iii) The learned APP waives notice for respondent no.1/State.

(iv) Mr. Wadikar, the learned Counsel, waives notice for

respondent no.2/intervener.

(v) In the event of arrest of the applicant in CR No.234 of 2022, registered with Shirur Police Station, District Pune, he be released on bail on furnishing a P. R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount.

(vi) The applicant shall not tamper with prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

(vii) The applicant shall cooperate with the investigation and attend Shirur Police Station on every alternate Saturday in between 10.00 am. to 1.00 pm. till the next date.

List on 1st August, 2022.”

3. I have heard the learned Counsel for the applicant, the learned APP for the State and the learned Counsel for the Respondent No.2.

4. There appears to be some inconsistency in relation to nature of weapon used. The applicant appears to be 80 years old. I am therefore inclined to grant anticipatory bail to the present applicant. The interim anticipatory bail granted by this Court by Order dated 4 July 2022 is hereby confirmed.

(N.R. BORKAR, J.)

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DHURI
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by KANCHAN
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DHURI
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