

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

ANTICIPATORY BAIL APPLICATION NO. 263 OF 2023

Bhimashankar @ Jeevan Mahadeo Phadkari ..APPLICANT

VERSUS

State of Maharashtra and Another ..RESPONDENTS

....
Mr. D.P. Palodkar, Advocate for applicant
Mr. N.T. Bhagat, A.P.P. for respondents
....

**CORAM : R.G. AVACHAT, J.
DATE : 16th MARCH, 2023**

PER COURT :

1. This is an application under Section 438 of Code of Criminal Procedure. The applicant claims to have an apprehension of being arrested in connection with Crime No. 23 of 2023 registered with Parli City Police Station, Dist. Beed for the offences punishable under Sections 354-A, 325, 327, 323, 143, 147, 149, 504 and 506 of the Indian Penal Code.

2. Heard. Perused First Information Report ("F.I.R.") and related police papers.

3. F.I.R. has been lodged on 20th January, 2023 in relation to the incident that took place the same day. It has been averred in the F.I.R. that

the informant and her husband run one Ayurvedic Clinic at Swati Nagar. The informant had taken a hand loan of Rs.7,20,000/- from the applicant way back in 2016. While the informant had been to the applicant to pay back his money, he made a demand of Rs.1,26,00,000/-, charging compound interest on the principal amount. The applicant even threatened the informant if that much amount is not paid to him, he would take possession of the clinic premises.

4. It is further alleged that the applicant and co-accused – Abhay alongwith 3-4 women came to the informant's clinic. The applicant and co-accused – Abhay caught hold the collar of the informant's husband and dragged him. The informant intervened to rescue her husband. The applicant, thereupon caught hold of her arm and robbed of her mangalsutra. When her husband intervened, he gave a fist blow on his face, causing dislocation of the tooth. A cell phone of her husband was also taken charge of. The women, who had accompanied the applicant, manhandled the informant and robbed her of cell phone, her house keys and cash of Rs.1,000/-.

5. Learned counsel for the applicant would submit that a false F.I.R. has been lodged. The applicant has filed Section 138 of Negotiable Instruments Act proceeding against the husband of the informant. Only with

a view to avoid repayment of money, the F.I.R. has been lodged. He, therefore, urged for grant of the application.

6. Learned A.P.P. would, on the other hand, submit that there are photographs of the incident. Custodial interrogation of the applicant is required to recover the stolen articles. Grievous hurt has been caused to the informant's husband. He, therefore, urged for rejection of the application.

7. Considered the submissions advanced. It appears that there are monetary transactions between the informant's husband and the applicant. The applicant has filed Section 138 of Negotiable Instruments Act proceeding against the informant's husband. True, the photographs indicate that some incident did take place. Close reading of the F.I.R. however, suggest that the incident appears to have been blown out of proportion. The allegations that the applicant robbed the informant of her mangalsutra and outraged her modesty might have been the exaggerated version. The applicant also gave a fist blow to her husband causing dislocation of tooth, may also be an afterthought version. It is reiterated that the averments in the F.I.R. suggest veracity thereof to be under doubt.

8. The Court is, therefore, inclined to grant the application. In the result, order dated 24th February, 2023, granting the applicant ad-interim

anticipatory bail, is hereby made absolute. The applicant shall appear before the investigating officer, as and when required for the investigating purpose. The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD