

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

ANTICIPATORY BAIL APPLICATION NO.415 OF 2023

Dashrath Maruti Pawar

..Applicant

Vs.

The State of Maharashtra
and anr.

..Respondents

Mr.Shaikh Majid, Advocate h/f. Mr.S.S.Deshmukh, Advocate for
applicant

Mr.A.S.Shinde, APP for respondents

**CORAM : R.G. AVACHAT, J.
DATE : APRIL 27, 2023**

ORDER :-

Heard.

2. The applicant has already been protected vide order dated 28.03.2023. Learned APP would submit that the process of attachment of property of the applicant had been initiated. Proclamation was issued post issuance of Non Bailable Warrant. Learned APP relies on the judgment of the Apex Court in the case of **Prem Shankar Prasad Vs. State of Bihar and anr., 2021 DGLS (SC) 646**, wherein, it has been observed that no anticipatory bail can be granted when process under Section 82 of the Code of Criminal Procedure is under-way.

3. The facts of the present case are other way round. The applicant had approached the Court of Sessions Judge for grant of anticipatory bail. Thereafter only, the police machinery moved the Court of Judicial Magistrate, First Class, for issuance of warrant, contending the applicant to have been absconding. It appears that since the applicant is alleged to have committed offence against police, such step was initiated at the earliest. Such thing did not appear to have happened in other matters. The State could have very well requested the Court of Addl. Sessions Judge seized of anticipatory bail application of the applicant, to seek his presence before the Court, instead of taking recourse to Section 82 of the Code of Criminal Procedure.

4. The allegations against the applicant are that he lodged a false FIR, contending therein that his son committed suicide and pelted stone on the police officials.

5. Considering the nature of the offence, this Court finds that custodial interrogation of the applicant is unwarranted. The investigating machinery appears to have been determined to be after him. The order dated 28.03.2023, granting the applicant

interim protection, is hereby made absolute. The applicant shall mark his presence at the concerned police station once a fortnight, i.e. on 1st and 15th day of each month, till next two months.

[R.G. AVACHAT, J.]

KBP