

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

ANTICIPATORY BAIL APPLICATION NO.649 OF 2023

PRALHAD BAPURAO KALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. S. S. Jadhav
APP for Respondents: Mr. S. P. Sonpawale
Advocate for informant : Mr. A. R. Hange

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CORAM : R.M. JOSHI, J

DATE : JULY 24, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 105 of 2023 registered with Ashti Police Station, Tq. Ashti, Dist. Beed for the offences punishable under Sections 354, 354-A, 143, 147, 323, 504, 506 read with Section 149 of the Indian Penal Code.

2. Informant claims that there are disputes between her family and family of the Applicants on account of agricultural field. It is alleged that on 18.03.2023 at around 11.30 am while she was going to the agricultural field, Applicants herein abused and assaulted her. It is alleged against them that they

outraged her modesty and caused assault on her abdomen by kick blows.

3. Learned Counsel for the Applicants states that there are dispute between the parties and the one of the Applicant was in fact present in the Ashti Police Station at the relevant time. Thus, according to him, this could be a case of false implication.

4. Learned APP and learned Counsel for informant opposed the said submissions by stating that the statement of informant is supported by the statements of witnesses as well as the medical certificate on record. It is, therefore, submitted that it is not a fit case for grant of anticipatory bail.

5. There is no dispute about the fact that the parties are at loggerhead and there are disputes occurring between them over agricultural field. As far as the incident of 18.03.2023 is concerned, it is specifically state that the incident had occurred at 11.30 am. It is alleged that Applicant Savita also assaulted her by giving kick blows on her abdomen. It is the contention of the these Applicants

that she was present in the concerned police station at the relevant time. In this regard, report submitted by concerned police station indicates that from 11.37 am till 04.32 pm the said Savita was found present in the concerned police station.

6. There is dispute between Counsel for the Applicant and informant about distance between the place of incident and police station. It is submitted by the Counsel for the Applicants that the said distance is about 30 kms whereas according to Counsel for informant distance is about 12 kms.

7. Learned APP was directed to placed on record exact distance between these two places. He placed on record report to the effect stating that the distance is about 18 kms. Even if it is accepted that the said Applicant Savita went to the police station after the occurrence of incident, it is not practicably possible to reach the police station even on motorcycle within seven minutes of occurrence of incident. Thus, her presence becomes doubtful at the place of incident.

8. Learned Counsel for the Applicants states that

as far as other applicants are concerned, the statement of informant and other witnesses shows their involvement in the crime. Had not there been dispute between the parties, such discrepancy could have been ignored, however, when the parties are at loggerhead and there is possibility of false implication, such discrepancy cannot be ignored at least at this stage. There is no allegation against Applicants of using weapon to cause actual assault. Thus, this is not the case wherein the custodial interrogation of the Applicants is necessary.

9. In view of these facts, the application stands allowed by confirming order dated 28th April, 2023.

10. It is clarified that aforesaid observations are made only for the purpose of decision of anticipatory bail application and that trial Court shall not get influenced by the same.

(R.M. JOSHI, J.)

Malani