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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 343 OF 2022
WITH
INTERIM APPLICATION NO. 2122 OF 2022

Saleem Abdul Razzaque Bagban

@ Bagwan

...Applicant

V/s.

The State of Maharashtra and Anr.

...Respondents

Mr. Wasim Hassan i/b Mr. Pratik Jadhav for the Applicant.

Mr. P.H. Gaikwad, APP for the Respondent/State.

Mr. Ganesh Bhujbal for the Respondent No. 2.

CORAM : N.R. BORKAR, J.
DATE : 21.04.2023

P.C. :

1. This is an application under Section 438 of Code of Criminal Procedure for anticipatory bail.
2. The applicant is apprehending his arrest in Crime No. 209 of 2021 registered at Samarth Police Station, Pune City, for the offences punishable under Sections 452, 448, 323, 143, 149 and 158 of the Indian Penal Code (IPC).
3. I have heard the learned counsel for the applicant, the learned APP for the respondent / State and the learned counsel for the respondent No. 2.
4. The allegations against the present applicant and other co-accused are of trespass and causing hurt to the complainant, who on the date of incident, which took place on 24 November 2021,

was working as Accountant in the shop where the alleged incident took place.

5. This Court on 09 February 2022 passed the following order:

"The Applicant, apprehending arrest, in connection with investigation of Crime No.209/2021 of Police Station Samarth, Pune City, under Section 452, 448, 323, 143, 149 and 158 of IPC, is seeking anticipatory bail.

2. It appears that there is a civil dispute between the parties on the possession of Faith Machinery Stores. The parties are real brothers. According to the Applicant, he is having 40% share in the partnership and his name is also recorded in the Shops and Establishment registration of the said shop. According to the first informant, the Applicant allegedly made an attempt to take forcible possession of the shop.

3. Learned counsel for the Applicant submitted that Section 452 of IPC would not be applicable as it pertains to house trespass.

4. Learned APP pointed out that the FIR has been registered in pursuance of order under Section 156(3) of Cr.P.C. Learned APP pointed out that the Partnership Deed and Will, on which the Applicant is placing reliance, is found to be fake. However, at present, there is no such order which is brought to my notice. Quite to the contrary, in the order passed by the learned Sessions Judge while rejecting the Application for anticipatory bail, the learned Sessions Judge has accepted that the Applicant is one of the partners in the firm which is running the Faith Machinery Stores. If that be so, learned APP may take detailed instructions as to whether there is any such finding by the competent Court. At this stage, prima facie, it appears that the dispute is predominantly of a civil nature.

5. Hence, the following order is passed.

ORDER

(i) In the event of his arrest in connection with investigation of Crime No.209/2021 of Police

Station Samarth, Pune City, the Applicant be released on bail on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

(ii) The Applicant shall report to the Investigating Officer on 17/2/2022 and 18/2/2022 between 11.00 a.m. to 1.00 p.m. and as and when directed and shall cooperate with the Investigating Agency and shall not tamper with the prosecution evidence / witnesses.

(iii) The Applicant shall not interfere with the running of the said shop otherwise than in due course of law.

(iv) This order shall remain in force till next date.

Stand over to 2 March 2022."

6. The prosecution has already filed charge-sheet against other co-accused. Considering the overall facts and circumstances of the case, I am inclined to release the applicant on anticipatory bail on certain conditions. In the result the following order is passed.

ORDER

A) The Application is allowed.

B) The interim order passed by this Court dated 09 February, 2022 is hereby confirmed.

C) Subject to the orders of the Civil Court, the applicant shall not interfere with the running of the shop in question, till the conclusion of the trial.

7. Interim Application is disposed of.

[N.R.BORKAR, J.]