

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 3015 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Date: 2023.10.30
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Anil Dattatraya Kale

...Applicant

Versus

The State of Maharashtra and anr.

...Respondents

Mr. Akshay Bankapur, for the Applicant.

Mr. S. H. Yadav, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.

DATED: 27th OCTOBER, 2023

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.378 of 2023, registered with Sinnar Police Station, Nashik Rural, for the offences punishable under Sections 143, 147, 148, 149, 354-A, 325, 324, 323, 504 and 506 of Indian Penal Code, 1860 ("the Penal Code") and Section 10 of the Prevention of Children from Sexual Offences Act, 2012.

3. The father of the first informant Yogesh Kale and her uncle Dnyaneshwar were at loggerheads over a dispute about

the common wall. At the time of incident the first informant was 17 years and 11 months old.

4. On 5th October, 2023 at about 3.30 pm. Dnyaneshwar Kale, his wife Surekha and their sons Prajwal and Vedant started to demolish the common wall. An altercation ensued. The applicant, who is also the brother of Yogesh and Dnyaneshwar, came thereat and instigated the co-accused Prajwal and Vedant to completely demolish the wall and abused the first informant and her grandmother. The first informant further alleged that her aunt Surekha pushed her down and, thereafter, co-accused Vedant outraged her modesty. When her another uncle Mahendra, father Yogesh and mother came to their rescue, the applicant and co-accused also assaulted them. The applicant allegedly gave blow by means of iron rod on the head of the father of the first informant. They threatened the first informant and her parents out of their lives.

5. The learned Counsel for the applicant submitted that prior to the incident in question on 6th July, 2023 Dnyaneshwar Kale had lodged a report against the father of the first informant and others for the offences punishable under Sections 143, 147, 148, 149, 324, 325, 504 and 506 of

the Penal Code. On the day of occurrence, the applicant had gone to resolve the dispute between brothers Dnyaneshwar and Yogesh. The applicant has no interest in the subject property. As an altercation ensued the applicant has been falsely roped in.

6. *Prima facie*, it appears that the genesis of the offences is in the dispute between the brothers over joint family property. It appears that reports have been lodged in respect of the quarrels which have taken place between the parties in the past as well. In the FIR also, the first informant refers to the running feud between her father and uncle. Role of outraging the modesty of the first informant and her mother has not been attributed in the applicant. It does not appear that the Yogesh, the injured, sustained any grievous injury. In this view of the matter, the question as to the whether the applicant also shared the common object to outrage the modesty of the first informant and her mother or knew that those offences would be committed in prosecution of the common object of the unlawful assembly would warrant adjudication.

7. Having regard to the nature of the accusation, relations between the parties and the role attributed to the applicant, I

am inclined to exercise the discretion in favour of the applicant.

8. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.378 of 2023, registered with Sinnar Police Station, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) The applicant shall cooperate with the investigation and attend Sinnar Police Station on 2nd 3rd and 4th November, 2023 in between 10.00 am. to 1.00 pm. and thereafter as and when directed.
- (iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant, any witness or any of the persons acquainted with the facts of the case.
- (iv) The applicant shall regularly attend the proceedings before the jurisdictional Court.

- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]