

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3303 OF 2023**

Somnath Dada Shelar ... Applicant
versus
State of Maharashtra ... Respondent

Mr. Tushar Kochale with Dr. Ajay Jankar, Ms. Bhavika Solanki i/by Mr. Akshay Bhole,
for Applicant.

Smt. A.A.Takalkar, APP for State.

Mr. S.E.Deokar, PHC, Karmala Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 1 DECEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.792 of 2023 registered with Karmala Police Station for the offences punishable under Sections 353, 332, 506, 143, 149 of the Indian Penal Code.
3. The indictment against the applicant is that the applicant along with other co-accused had formed an unlawful assembly and in prosecution of the common object of the unlawful assembly had used criminal force against the officials of the Forest Department, who had visited the Forest land bearing Gat No.118/42B to carry out plantation. The applicant allegedly slapped one of the forest guard – Gajanan and snatched the mobile phone from him and deleted the videos and photographs.
4. The learned Counsel for the Applicant submitted that there is a dispute

about the character of the subject land. The applicant and his family members have been in possession and cultivation of the subject land since 1940. As the applicant resisted the attempts of the forest officials to forcibly dispossess the applicant, a false case has been lodged against the applicant.

5. On the other hand, learned APP submitted that two more forest offences, being Nos.4 and 5 of 2023, have been registered against the Applicant. Since the applicant had assaulted the forest officials, while they were discharging their official duties, the applicant does not deserve exercise of the discretion.

6. I have perused the allegations in the FIR and the material on record. Prima facie, it appears that on account of the dispute over the character of the land, an altercation had been taken place. Having regard to the nature of the accusation and the alleged occurrence, even if the case of the prosecution is taken at par, the custodial interrogation of the applicant does not seem to be warranted to facilitate further investigation. The possibility of tampering with the evidence seems to be remote. The applicant appears to have roots in society. Therefore, the possibility of fleeing away from justice also appears to be remote.

7. I am, therefore, inclined to exercise discretion in favour of the applicant while directing him to join in the investigation.

6. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicant – Somnath Dada Shelar in connection with C.R.No.792 of 2023 registered with Karmala 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 co-operate with the investigation and report to Kalyan Taluka Police Station on 8th, 9th and 11th December 2023 in between 10.00 a.m. to 1.00 p.m., 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 or any of the prosecution witnesses 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) The application stands disposed.

(vi) It is, however, clarified that the observations are confined to the consideration of entitlement for pre-arrest bail and the trial Court shall not be influenced by any of the observations in further proceedings.

(N.J.JAMADAR,J.)