

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.333 OF 2023

(Kishor s/o Mohan Jagtap Vs. State of Maharashtra and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri H. Dhumale, Advocate for the applicant.
Shri S.M. Ghodeswar, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 07, 2023.

Heard.

2. By this application the applicant is seeking anticipatory bail in the event of his arrest in connection with Crime No.487/2021 registered at police station Pusad (Gramin), District Yavatmal for the offence punishable under Sections 294, 351, 379, 382, 391, 397, 398, 415, 427, 504 and 506 read with Section 34 of the Indian Penal Code.

3. The applicant is apprehending arrest at the hands of the police as one Bhaurao Appaji Bodakhe has lodged the report to the police station alleging that all the applicants entered into the agricultural field by contravening the order of the Civil Court by holding weapons in their hands and assaulted the informant and other prosecution witnesses. It is further alleged that the Civil Court has observed that the informant is in possession of the land and the applicant and other co-accused should not disturb their possession. Despite all these directions in order to grab the land the applicant

and other co-accused entered into the agricultural field and committed breach of the order of the Civil Court as well as the order of this Court and carried the soyabean of the informant which was in his field worth of Rs.1,40,000/- and also assaulted the informant by sticks and by axe.

4. As per the contention of the applicant that due to the civil dispute between the parties this false report is lodged against him as well as other co-accused. Other co-accused are already released on bail by the Sessions Court. Even the allegations are taken as it is nothing is to be recovered from him, and therefore, he be released on anticipatory bail in the event of his arrest. He will abide by all the conditions imposed by this Court.

5. Said application is strongly opposed by the Additional Public Prosecutor for the State on the ground that the applicant has contravened the order of Civil Court as well as this Court and taken law in his hand and assaulted the informant and other prosecution witnesses. *Prima facie* material is sufficient to show the involvement of the present applicant in the alleged offence, and therefore, application deserves to be rejected.

6. Heard learned Counsel for the applicant. He reiterated the contentions and submitted that out of civil dispute this false report is lodged against the present applicant and other co-accused. Other co-accused who are similarly situated are already released on anticipatory bail by the Sessions Court, therefore, on the ground of

parity also the present applicant is entitled to be released on anticipatory bail in the event of his arrest.

7. Learned Additional Public Prosecutor strongly opposed the application but admitted that other two accused who are similarly situated are already released on bail by the Sessions Court.

8. Perused the application and the investigation papers. It is apparent that the dispute between the parties regarding the possession of the land is pending. The Civil Court as well as this Court has restrained present applicants from entering into the field. The applicants have committed the breach of the said order. Apparently the dispute between the parties is of a civil nature and the alleged incident took place in the agricultural field which is in dispute. Other two applicants are already released on bail by the trial Court by observing that the dispute between the applicant and the informant is of civil nature and physical custody of the present applicant is not required. Admittedly, nothing is to be recovered from the present applicant as other co-accused are already released on anticipatory bail to whom the similar role is assigned. Thus, on the ground of parity also the present applicant is entitled to be released on bail.

9. In view of that by taking into consideration the nature of the dispute which is of civil nature and immediate physical custody of the present applicant is not required, the applicant is to be protected by granting anticipatory bail in the event of the arrest by imposing

certain conditions. Hence, I proceed to pass the following order :

- (i) The application is allowed.
- (ii) The applicant – Kishor s/o Mohan Jagtap in the event of arrest in Crime No.487/2021 registered at police station Pusad (Gramin), District Yavatmal for the offence punishable under Sections 294, 351, 379, 382, 391, 397, 398, 415, 427, 504 and 506 read with Section 34 of the Indian Penal Code, be released on anticipatory bail on executing PR. Bond in the sum of 25,000/- (Rs. Twenty five thousand) with one solvent surety in the like amount.
- (iii) The applicant shall attend the concerned Police Station as and when required for investigation purpose.
- (iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.
- (v) The applicant shall produce his cell phone number and address along with address proof before the Investigating Officer.

(URMILA JOSHI-PHALKE, J.)