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

**ANTICIPATORY BAIL APPLICATION NO.1739 OF 2023**

Nandkishor Wamanrao Todekar

APPLICANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

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Mr. Vishal S. Kadam, Advocate for the applicant

Mrs. Uma Bhosale, APP for respondent - State

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**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 30<sup>th</sup> JANUARY, 2024**

**ORDER :**

1. Applicant apprehends arrest in Crime No.193 of 2023 registered with Pimpalner Police Station, District - Beed for offence punishable under section 353, 323, 504, 506 of the Indian Penal Code.

2. FIR is lodged by Senior Technician MSEDCL, Beed. It is alleged that on 21<sup>st</sup> September, 2023, at about 16.30 hours, he along with Akshay Gunjal (Technician), had gone to replace the burnt transformer at Chavanwadi, Kukkadgaon. They completed their work and were returning. At that time, outside the village, Bhausahab Wamanrao Todekar, resident of Chavanwadi came and by calling surname of informant, asked him as to why his

electricity supply is disconnected. Informant told him that transformer was burnt and it is replaced and electricity will be restored within short period. On that applicant told him that he always puts hook to get electricity connection and informant always removes it. Informant then told him to take legal electricity connection so that he will have uninterrupted power supply and that he is not the customer of MSEDCL. Then applicant came near him and caught hold of collar of his uniform and tried to pick up stone to hit the informant. At that time, persons accompanying informant, namely Akshay Gunjal, villagers, Devidas Chavan, Rajabhau Chavan and Shivaji Todekar intervened and separated informant from applicant. At that time, applicant gave threats that he will not allow informant to go outside the village and will kill him with chopper. He also said that he will see as to how informant enters the village.

3. Heard learned advocate for applicant and learned APP for the State. Perused the papers of investigation.

4. Learned advocate for applicant submits that applicant is different person and his name is not mentioned in the FIR and merely because he has not taken electricity connection as he is willing to avail benefit of house from Gharkul scheme, he is falsely implicated in the present crime. Nothing is to be

recovered from the applicant and, therefore, his custody is not necessary for investigation purposes.

5. Learned APP, on the other hand, opposed the application, by relying on investigation papers. Learned APP has pointed out that in the supplementary statement, informant has stated that on inquiry in the village it is found that applicant is the same person who is named in the FIR.

6. Four eyewitnesses, those who have separated applicant from informant, have supported the allegations made in the FIR. From investigation papers, it *prima facie* appears that applicant has used criminal force to deter public servant from discharging his official duty. It appears that the applicant is not having electricity connection.

7. Merely because custody of applicant is not necessary that by itself does not mean that applicant is entitled for anticipatory bail.

8. In "***Sumitha Pradeep V/s Arun Kumar CK and Another***" Criminal Appeal No. 1834 of 2022, the Hon'ble Apex Court has observed thus -

*"In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and,*

*therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated by itself, cannot be a ground to grant anticipatory bail.”*

9. Since *prima facie* involvement of applicant is made out in the investigation papers and considering the fact that applicant has used criminal force against public servant, to deter him from doing his duty, applicant is not entitled for discretionary relief of anticipatory bail. Application is therefore, rejected.

10. At this stage, learned advocate for applicant requests for continuation of interim protection granted to applicant. Interim protection is continued for a period of two weeks from today.

**[NITIN B. SURYAWANSHI]**  
**JUDGE**