

ORDER BELOW EXH. 1 IN CRI. BAIL APPLICATION NO.1205/2022

(CNR NO.MHPU140035142022)

This is an application filed by the applicant / accused Maya Sunil Dhumal under Section 438 of the Code of Criminal Procedure, praying for releasing her on anticipatory bail in connection with C.R. No.342/2022 registered with Vadgaon Nimbalkar Police Station, Baramati, Dist. Pune under Sections 326, 324, 323, 504, 506 read with Sec.34 of the Indian Penal Code.

2] As per the story of prosecution, informant Dnyanadev Jadhav contended that, he is agriculturist and he and his brother sold some portion of land to accused Sunil. But, accused persons have kept extra land in their possession and after measurement also they have not handed over the said extra land to informant and on this count there was disputes between them. On 25.09.2022 at about 1.30 p.m. he went to his agricultural land Gat No.1184 at village Kharati and his son Yogesh was giving water to sugarcane crop at nearby filed. When he wondering in the filed he saw that some tamarind trees were planted by accused Sunil. Therefore, he asked accused Pranit (son of accused Sunil) that why they planted tamarind trees in his portion of agricultural land. On this count accused Pranit beat him by hands and abused and threatened him and also assaulted him by spade on his head. Then he assaulted him by sickle on his left upper arm and leg palm in which his left hand got fractured. When he fall down accused Sunil and present applicant / accused beat him by kick and fist blows and abused him in filthy language. Due to hue and cry of informant, his son Yogesh came there. They also threatened him to kill and then they left the place. On these allegations he lodged report to Vadgaon Nimbalkar Police Station, Baramati.

3] The contention of the applicant / accused is that she has not committed any offence as alleged and she has been falsely implicated in the present crime. The incident took place on 25.09.2022 and FIR came to be lodged on 03.10.2022. There is inordinate delay in

lodging of FIR. Considering the facts and circumstances 326 of IPC is not attracted. She has no criminal antecedents. Only to restrain applicants / accused from cultivating the land informant has lodged this false FIR against her. There is no recovery at the instance of present applicant / accused. She is permanent resident of Kunjirwadi, Pune. She is ready to furnish surety as per the directions of the Court. She is ready to cooperate police in investigation. She will not tamper or hamper the prosecution evidence and witnesses. Lastly, she prayed to release her on anticipatory bail.

4] The prosecution has filed say Exh.6 and opposed the application on the ground that the agricultural lands of accused No.3 and informant are adjacent to each other and there were dispute between them on agricultural land. If accused No.3 is released on bail she will again commit similar type of offence. Weapons used in the commission of offence are yet to be seized. If applicant / accused released on bail she will not co-operate the investigating agency and will help the accused No.2 to abscond. Offence is serious in nature. Lastly, it prayed to reject the application.

5] Heard Advocate V. B. Badekar for the applicant / accused. Heard learned A.P.P. for the State. Perused the case diary and documents. The Id. Counsel also relied on (1) Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others, Criminal Appeal No.2271/2010 decided on 02.12.2010 & (2) Mahipal Vs. Rajesh Kumar @ Polia & Anr., Criminal Appeal No.1843/2019 decided on 05.12.2019.

6] I have gone through the case diary produced by Id. APP. The case laws cited by Id. Counsel of accused are in respect of parameters of granting anticipatory bail of accused.

7] It reveals from FIR that the role of each applicants / accused is categorically mentioned in the FIR. Present applicant / accused is actually involved in the crime and also present at the time of

incident. She is mother of main accused No.2 and she also beat informant by fist and kick blows with their common intention when accused No.2 Pranit assaulted informant by spade and fractured his hand. On perusal of say of prosecution investigation is at primary stage and weapons used in the commission of crime are yet to be seized. The informant, applicant / accused are having agricultural lands adjacent to each other and the possibility cannot be ruled out that if applicant / accused is released on bail then there will be every chances of hampering and tampering prosecution evidence or witness and will again commit similar type of offence and she will not appear before the Court for trial.

8] The Ld. Counsel submitted there is delay in lodging of FIR and informant without visiting police station approached directly to hospital which is long from police station to create doubt which prima facie shows that informant made after thought story to falsely implicate applicant / accused in the present crime. The delay in lodging FIR is a matter of evidence and that can be considered at the time of trial. Apart from this it is natural conduct of human being who sustained injury should approached hospital first and then police station. Therefore, prima facie I do not find any substance in the submission of applicant / accused to that effect.

9] It is further contended by applicant / accused that there is previous enmity in between informant and applicant / accused and other accused and said fact is clear from FIR itself. So also, no stab injury to the informant though he was alleged to be assaulted by sickle (koyta). No specific role of applicant / accused is shown in the crime and no criminal antecedents of applicant / accused. All these points raised by Id. Counsel of applicant / accused are matter of evidence and that can be considered at the time of trial. It is further to be noted that yet alleged weapons are not recovered and role of each and every accused including present applicant / accused is described in FIR. So also, as per medical certificate the injury shown to the informant are

grievous. Merely hospital authorities have not intimated the fact to the police that does not prima facie mean that the incident has not occurred.

10] Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance to maintain law and order in the locality. For these or other reasons, arrest may become inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well-defined and the jurisdictional scope of interference by the Court in the process of investigation is limited. The Court ordinarily will not interfere with the investigation of a crime or with the arrest of accused in a cognizable offence.

11] Considering these facts and considering the nature and gravity of offence and role played by the applicant/accused, it is not a fit case to exhaust the judicial discretion of grant of bail in his favour at this juncture. Therefore, it is expedient to pass the following order :-

ORDER

1. Bail Application No.1205/2022 stands rejected.
2. Criminal Bail Application No.1205/2022 is disposed of accordingly.

(S. S. Pallod)
Additional Sessions Judge,
Baramati.

Date: 06.10.2022

CERTIFICATE

I affirm that the contents of this PDF file order are same word to word as per original order.

Name of Steno.	:	P.K.Shirolkar,
Court Name	:	Mr. S. S. Pallod,
		Additional Sessions Judge,
		Baramati.
Date on which the P.O.		
Signed the order	:	07.10.2022
Date of PDF file	:	07.10.2022
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