

CNR No. MHNS010006442022

Order below Exh.1 in Cri. Bail Application No.225/2022.
(Poonamchand Papatlal Jain Vs. State)

This anticipatory bail application is moved by the applicant-accused Poonamchand Papatlal Jain, under section 438 of the Code of Criminal Procedure (hereinafter referred to as "Cr.P.C." for short) in connection with CR No.53/2022 registered with Dindori Police Station, Dist. Nashik for the offence U/s.386, 341, 323, 504, 506 r/w sec.34 of the Indian Penal Code (hereinafter referred to as "IPC" for short) on 8.2.2022.

2. It is stated in the application that, complainant had filed complaint application against the applicant-accused on 30.10.2021 about extortion to the Police Inspector, Dindori, as there is no substance in the application, it was not considered by the police and therefore, he was not knowing about the said application. The complainant had also lodged FIR at Nashik road police station on 26.12.2021 under section 120B, 323, 384, 504, 506, 427 r/w sec. 34 of IPC vide CR No.336/2021.

The complainant has filed application bearing Cri.M.A. No.28/2022 under section 156(3) of Cr.P.C. and on 5.2.2022 order was passed by the learned JMFC, Dindori directing the police to register the crime and on the basis of it offence under section 386,341,323,504,506 r/w sec.34 of IPC vide CR No.53/2022 was registered. The complainant has filed complaint by taking disadvantage of this incident at Nashikroad police station vide CR No.336/2021 and the Additional Sessions Judge-4, Nashik was pleased to reject the anticipatory Cri. Bail application No.1769/2021 on 13.1.2022 and at present the applicant-accused

has moved anticipatory Cri. Bail Application No.180/2022 before the Hon'ble Bombay High Court and the Hon'ble Bombay High Court has granted ad-interim anticipatory bail.

It is also stated that applicant-accused had established Mahavir Education Trust, registered bearing No. F-4401/Nashik. Complainant, his son Rahul Harish Sanghavi and Shashank Manerikar are trustee of the said trust and they have committed fraud in the trust and therefore, applicant-accused filed complaint and to withdraw the same the said complaint is filed against him. The complainant has also filed false complaints at various police station against him, which were not considered by the Court and police. The applicant-accused is falsely implicated in the present crime. He is local resident and submitted that he will abide the conditions laid down by this Court and will co-operate the Investigating machinery and hence, prayed to allow anticipatory bail application.

3. The original complainant appeared in the matter and filed his objection at Exh.34.

4. Heard both parties. I.O. is also present and placed on record the documents relating to the investigation so far done by him.

5. The learned AGP Shri. Sachin Gorwadkar submitted that applicant-accused has threatened through two persons to the complainant on 30.10.2021 at 2.30 p.m. when he was returning from a college run by Mahavir Education Trust from Varvandi to Nashik. The complainant was accompanied by his son. Those two persons were on motorcycles and they manhandled and assaulted

complainant and his son. They also abused the complainant and his son and also asked them to pay Rs. 5 Crore to the accused and the charge of Mahavir Education Trust and also threatened to kill. He also pointed another incident dated 12.11.2021 at 7.15 p.m. when the complainant and his trustee colleague Shashank Manerikar were returning from college, when they came to the gate of the college the applicant-accused obstructed them and remanded them the incident dated 30.10.2021 and again repeated of his demand of Rs. 5 Crore and handing over the Trust to him and failing which threatened to kill them. Thus, he submitted that there is prima-facie against the applicant-accused about his involvement in the crime. The earlier bail application filed by the applicant-accused in Cri. Bail Application No. 1769/2021 under section 438 of Cr.P.C. in connection with CR No.336/2021 of Nashikroad Police Station is rejected by the Additional Session Judge-4 on 13.1.2022, in which the complainant in the present case has lodged the FIR with Nashikroad police station on 25.12.2021 against the applicant-accused regarding the incident dated 25.12.2021. Therefore, he submitted that two persons allegedly representing the applicant-accused are yet to be arrested who had given threatening to the complainant and his son. He further submitted that other co-accused are yet to be arrested and their whereabouts are known to the applicant-accused as well as the motorcycles used in commission of offence are required to be seized and therefore, the custodial interrogation of the applicant-accused is necessary. Hence, prayed to reject the bail application.

6. The original complainant also supported the prosecution. The learned counsel for original complainant

submitted that prima-facie the involvement of the applicant-accused is in the present crime and intending to extort huge amount from complainant and also threatening and proper police investigation is required and therefore, considering the fact, custodial interrogation of the applicant-accused is required, hence, prayed for rejection of application. In his objection at Exh.34 he had given the history of litigation between complainant and the applicant-accused in respect of the Mahavir Education Trust, Nashik.

7. On the other hand, the learned counsel Shri. G.P. Sanap submitted that this court has granted interim anticipatory bail on 17.2.2022 and the applicant-accused is co-operating to the Investigating Officer as per the direction of the Court. Applicant-accused is reputed person and local resident, he will not abscond and ready to abide all conditions imposed by the Court. Applicant-accused is heart patient. The antecedents of the applicant-accused are clean. Therefore, he submitted to enlarge the accused on anticipatory bail.

8. I have carefully gone through the entire police papers. It appears that applicant-accused was Ex-Chairman of the Mahavir Education Trust and subsequently due to change in circumstances the complainant is at present Chairman of the Trust. It is admitted fact that there are several litigations were filed regarding the said Trust in between both the parties. The original complainant has given detail account in his written objection at Exh.34 since 1999. Thus, there is background of earlier civil litigation pertaining to the Mahavir Education Trust between both the parties. Therefore, on the background of these circumstances the present bail application

is required to be considered on merit.

9. As per FIR two incident have been mentioned by the complainant. The first incident is dated 30.10.2021 at about 2.30 p.m. and another is dated 12.11.2021 at 7.15 p.m. However, surprisingly the complainant has not reported to the police the first incident, which is more serious in nature, in which they were allegedly threatened and illegally demanded Rs. 5 Crore and charge of the trust by two persons representing the applicant-accused. The complainant kept mum till 12.11.2021 and when the second alleged incident occurred, he allegedly approached to the police, however, police did not take action and therefore, lodged complaint with the learned JMFC, Dindori by filing Cri.M.A No.28/2022 in which the learned JMFC, appears to be passed order under section 156(3) of Cr.P.C. on 5.2.2022 and thereafter the crime bearing No.53/2022 was registered by the Dindori Police Station against the applicant-accused on 8.2.2022. Thus, considering all this fact, it appears that if at all complainant was serious about the alleged extortion, threats given by the applicant-accused or his men on 30.10.2021, he ought to have immediately approached to the police, however, he did not act like a ordinary prudent man and again mentioned the subsequent incident dated 12.11.2021 in which the applicant-accused appears to be crossed him and his colleague Shashank Manerikar at the gate of college and repeated his threat.

10. From the aforesaid facts, involvement of the applicant-accused in the present crime creates serious doubt and therefore, I am of the opinion that considering the facts of the case and

narration stated in the FIR, the applicant-accused has made out case for grant of anticipatory bail. Hence, following order is passed.

ORDER

- 1) Anticipatory bail application No.225/2022 is hereby allowed.
- 2) Interim anticipatory bail granted by this court to applicant-accused Poonamchand Popatlal Jain by order dated 17.2.2022 is hereby made absolute on same terms and conditions.
- 3) Applicant-accused shall attend the Dindori Police Station on every Sunday in between 11.00 a.m. to 1.00 p.m. till filing of charge-sheet or till three months from this order, whichever is earlier.
- 4) Inform concerned Police station

Date- 11.10.2022

(M.A. Shinde)
Additional Sessions Judge-9,
Nashik.