

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

CRIMINAL APPLICATION NO.6743 OF 2013.

Sitabai w/o Kondiba Bhujbal,
Age: 50 years, Occ: Sarpanch,
R/o. Warkhed, Tq. Pathri,
Dist. Parbhani.

...Applicant

versus

1. The State of Maharashtra,
Through the Superintendent of Police,
Parbhani, Tq. & Dist. Parbhani.
2. The Police Inspector,
Pathri Police Station,
Tq. & Dist. Parbhani.
3. Suresh s/o Uttamrao Dhage,
Age: Major, Occ: Agri.,
R/o. Warkhed, Tq. Pathri,
Dist. Parbhani.

...Respondents

.....
Mr. Ravindra Nirmal, Advocate for applicant.
Mr. R.P. Phatke, A.P.P. for respondent Nos.1 & 2.
Mr. S.J. Salunke , Advocate for respondent No.3.
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CORAM : T. V. NALAWADE, J.

DATE : 2ND FEBRUARY, 2015

ORAL ORDER :

. This is an application for cancellation of anticipatory bail granted by the learned Additional Sessions Judge, Parbhani in Crime No. 3034/2013 registered with Pathri police station for the offence

punishable under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 7(1)(d) of the Protection of Civil Rights Act.

2. Both sides are heard.

3. This Court has perused the papers of investigation, on which learned Counsel for the applicant wants to rely and this Court has also perused the other papers including statement of Photographer Balu Dhage.

4. In F.I.R. allegations were made by present applicant that on 15/08/2013 she was not allowed to hoist national flag even when she was the Sarpanch of the village and the Deputy Sarpanch hoisted flag. She made allegations that when she was going to flag post to hoist the national flag, respondent No.3 became angry and gave abuses on her caste, Scheduled Caste. She was not allowed to hoist flag and abuses were given on her caste. Photostat copies of three photographs are produced to show that after flag hoisting, present applicant was present in the vicinity of flag.

5. The learned Counsel for applicant relied on the case of

the Hon'ble Supreme Court reported in ***A.I.R. 2012 SC 3316*** in the matter of ***Vilas Pandurang Pawar and another vs. State of Maharashtra and others*** and submitted that the Sessions Court has committed error in granting anticipatory bail. He submitted that the respondent-accused is history-sheeter and all these circumstances are not considered by the Sessions Court.

5. This Court has perused the papers of investigation. Photographer is not supporting the present applicant. There is no material to show that at the time of flag hoisting, the applicant was present. It appears that she did not turn up at the time of flag hoisting but she came subsequent to flag hoisting.

6. Though anticipatory bail can not be granted ordinarily, when the case falls under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the Court is expected to see that whether there is material to make out such offence. In respect of the incident of 15/08/2013, the crime was registered on 18/08/2013. The cancellation of relief is a serious matter and is different from the consideration for grant of relief. The charge sheet is already filed and the case is committed. It is not desirable to set aside the order dated 06/12/2013 passed by the learned Additional Sessions Judge, Parbhani in Criminal

M.A.No.570/2013 and relief not to be cancelled. Hence, Criminal Application is rejected.

[T. V. NALAWADE , J.

Tupe/02.02.15