

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

**Criminal Application [ABA] No.19 of 2015**

(Sau. Anita Vitthalrao Gawande and another  
 vs.

The State of Maharashtra, through P.S.O. Ural, Tahsil Balapur, District Akola)

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Office notes, Office Memoranda of  
 Coram, appearances, Court's orders  
 or directions and Registrar's orders.

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Court's or Judge's Orders

**CORAM : PRASANNA B. VARALE, J.**

**DATE : FEBRUARY 10, 2015.**

Heard Mr. A.B. Mirza, the learned Counsel for the  
 applicants.

The applicants are before this Court for the  
 protection in the nature of pre-arrest bail apprehending their  
 arrest in connection with Crime No.142/2014, registered at Ural  
 Police Station, District Akola for the offences punishable under  
 Sections 420, 504, 506 read with Section 34 of the Indian Penal  
 Code.

This Court while issuing notice to the non-  
 applicant/State, granted *ad interim* protection referring to the  
 submissions of the learned Counsel for the applicants.

The learned Counsel for the applicants, by inviting  
 my attention to the report, submits that the report is nothing but  
 a purposeful act of vindication against the applicant no.1. He  
 submits that the applicant no.1 is elected as Sarpanch of village

Mokha and was actively participating in the various *bona fide* schemes. He further submits that the persons, who are against the applicants and carrying political enmity, were making attempts to unseat the applicant no.1. The learned Counsel further invited my attention to an application submitted by the applicant no.1 to Ural Police Station, as she was apprehending mischief against her. He then invited my attention to the notice of a special meeting called for 'no confidence motion' against the applicant no.1. He also, by inviting my attention to the copy of resolution passed by the Panchayat on 17/05/2014, submits that the applicant, who was instrumental in passing the resolution, wherein it was resolved that certain houses, which are in dilapidated condition, be repaired under the scheme of the Government and 13 beneficiaries were selected for providing the benefit of that scheme. He submits that the resolution was passed by majority. He then invited my attention to the photographs showing the houses of those beneficiaries and visit of the applicant no.1 to the houses in presence of those beneficiaries. Thus, the submission of the learned Counsel for the applicants is, the applicant no.1 herself was taking interest to see that the villagers of Janori and Mokha are benefited by the Government scheme and the dissatisfied members of the opposition group were instrumental for lodging false offence against the applicant no.1. He submits that the applicant no.2 is

the husband of applicant no.1 and in no way related to the affairs of the Panchayat, and merely because the applicant no.2 is husband of applicant no.1, he is also falsely implicated in the offence. The learned Counsel also submits that the applicants have complied with the directions of this Court by order dated 16/01/2015 and they are ready to cooperate the investigating agency. He further submits that the role of the applicant no.1 is limited to refer the proposals of the beneficiaries to the administration and applicant no.1 plays no role in sanctioning the proposal, and it is for the Superior Officers of the Government to consider the proposals and accordingly grant approval or sanction. The learned Counsel also submits that the custodial interrogation of the applicants is not required in view of their alleged role.

Mr. R.S. Nayak, the learned A.P.P. opposes the application. The learned A.P.P. submits that the statements are recorded by the investigating agency and a serious offence is committed. It is stated in the reply that for the recovery of the amount, the custodial interrogation of the applicants is necessary.

From the perusal of the resolution, it reveals that a scheme is floated by the Government for providing shelters. 13 beneficiaries were selected and their proposals were forwarded. The reply filed by the State is silent on the aspect, whether

under the scheme, on submitting the proposal, any approval or sanction was granted and whether the amount was disbursed to those beneficiaries under the scheme. The reply filed by the State is also silent on the aspect, namely in the report lodged at the instance of the complainant, it is stated that abuses and threats were extended and the same was recorded in a cellphone of one of the witnesses. Though the reply refers that one witness recorded the version of the applicant/accused, there is no further lead in the investigation to that aspect when the report is of 24/12/2014 and the alleged incident is of 26/06/2014. It is also not the case of the investigating agency that the applicants failed to comply any direction of this Court of the order, dated 16/01/2015.

Considering this aspect of the matter, in my opinion, the learned Counsel for the applicants has made out the case.

In the result, the application is allowed. The interim order passed by this Court on 16/01/2015 is confirmed with the condition that the applicants to attend Ural Police Station, Tahsil Balapur, District Akola on every second and fourth Sunday of the month from 09:00 a.m. to 12:00 p.m., till fining of the charge-sheet.

Hamdast is granted.

**JUDGE**