IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2007 OF 2016

1 Vasant S/o Ramrao Sarovar
2 Kiran S/o Vasant Sarovar **APPLICANTS**

V E R S U S

1 The State of Maharashtra **RESPONDENTS**
2 The Police Inspector, Gangapur
Police Station, Gangapur, District Aurangabad

Mr. P.P. Khandagale-Patil, Advocate for the Applicants
Mr. S.S. Raut, A.P.P. for the Respondents - State

CORAM : K.K. SONAWANE, J.

DATE : 17th MAY, 2016

PER COURT :

1. Heard the learned counsel appearing for the applicants. It has been contended that the applicants are falsely implicated in this case, on account of political rivalary. The applicants did not visit to the office of the complainant nor assaulted him, but the false allegations are made against the applicants by the complainant. It has been contended that the

sale and purchase licence of the applicants was to be renewed by the concerned authority, but no action was taken for renewal of licence of the applicants. Therefore, applicants had been to the office of the complainant to make necessary enquiry about renewal of their licence. But, the applicants are falsely implicated in this case. The applicants are reputed businessmen in the town. The applicant no.1 Mr. Vasant had contested the election of the Market Committee for the post of Director of A.P.M.C., but they did not succeed in the said election. Since then, some office bearers are against the applicants. The applicants are ready to abide condition if any imposed for grant of anticipatory bail to them.

2, Learned A.P.P. Mr. S.S. Raut opposed the contention of the applicants and submitted that the applicants, on 18th February, 2016, at about 03.30 p.m., visited to the office of the complainant and reprimanded him for not issuing the licence in their favour. The complainant made efforts to give understanding to the applicants, but they were not in a condition to listen. The complainant in his First Information Report categorically described the overt act of the applicants and mentioned that the applicants hurled the abuses and beaten-up the complainant by kicks and fists. The applicants also gave the threats of life

to the complainant. According to the learned A.P.P., the police of Gangapur Police Station registered the Crime No. 59 of 2016, punishable under Section 353, 323, 504, 506 read with Section 34 of the Indian Penal Code against the applicants. The Investigating Officer recorded the statements of the prosecution witnesses. They have categorically stated about the participation of the applicants / accused in this crime. At the time of alleged incident of assault, the complainant was in his office for discharging his official duties. The learned A.P.P. submitted that the applicants are not entitled to avail the benefit of discretion under Section 438 of the Cr. P.C. Hence, the learned A.P.P. requested to reject the application.

3. Heard the learned counsel for the applicants and the learned A.P.P. for the State. I have also delved into the investigation papers produced on record.

4. Admittedly, the complainant in the vital document of his F.I.R. attributed the overt act of the accused / petitioners when he was discharging the official duty in the office of A.P.M.C. The statements of the other prosecution witnesses demonstrate the *prima facie* case against

the applicants. Taking into consideration the gravity of the allegations and participation as well as involvement of the accused / applicants in this crime, it would unjust and improper to exercise the discretion in favour of applicants to release them on anticipatory bail. There are also allegations against the applicants that they had taken away the valuable documents of the file of advertisement preserved in the office of A.P.M.C. The reasonable opportunity is essential to be given to the prosecution to collect the evidence into the crime. The investigation is in progress. The learned trial judge has correctly appreciated that in view of nature of allegation and the manner in which the crime came to be committed, the applicants / accused, have no any *locus standi* to seek relief of anticipatory bail as envisaged under Section 438 of the Cr. P.C. I do not find any infirmity in the findings recorded by the learned trial Court while rebuffing the relief of anticipatory bail prayed on behalf of the applicants. Considering the attending circumstances and gravity of the allegations, I am not inclined to nod in favour of applicants for the relief under Section 438 of the Cr. P.C. in this crime. It is worth to mention that such type of activities of assaulting the public servant while discharging the official duty are increasing day-by-day and in case the discretion is exercised in favour of such applicants it would cause cynical disregard of the process of law

and people may lose faith from the Justice delivery system. Therefore, application deserves to be rejected. In view of above, application stands dismissed.

Inform the concerned Investigating Officer accordingly.

(K.K. SONAWANE, J.)
VACATION JUDGE

srm/17/5/16