

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

CRIMINAL APPLICATION NO.1993 OF 2017

Rajesh Madhav Sutar .. Applicant

Versus

The State of Maharashtra and another .. Respondents

Mr.Mahendra B. Kolpe, Advocate for the applicant

Mr.K.D. Munde, APP for the respondent/State

WITH

CIMINAL APPLICATION NO. 1419 OF 2017

Sangameshwar Shivling Swami .. Applicant

Versus

The State of Maharashtra and another .. Respondents

Mr.P.P. More, Advocate for the applicant

Mr.K.D. Munde, APP for the respondent/State

**CORAM : S.S. SHINDE &
S.M. GAVHANE, JJ.**

DATED : 21.07.2017

P.C. :-

. Heard learned counsel appearing for the applicant and learned APP appearing for the State. Perused the investigation papers. Learned counsel appearing for the applicant submits that they are no way

connected with the allegations in the FIR. It is submitted that the applicant in criminal application no. 1419/2017 was elected as a Sarpanch in the year 2010 and as a Deputy Sarpanch in the year 2015, and the rival political group is instrumental in falsely implicating the applicants in the alleged offences. It is submitted that there is no concept of local body at the district level. It is submitted that the applicants are neither employees nor office bearers of the said society. Learned counsel invites our attention to the affidavit filed by the informant before the JMFC, Osmanabad, and submits that he had given no objection to release the applicants on bail and also has no grievance if FIR lodged against the present applicants is quashed. Therefore, relying upon the contents of the affidavit filed by the informant and grounds taken in the application, the learned counsel submits that the application for quashing the FIR deserves to be allowed.

2. Learned APP appearing for the State relying upon the investigation paper and in particular statement of various witnesses recorded during the investigation submits that, not only that the witnesses have named the applicants but overt acts are also attributed to them. There are allegations of hatching criminal conspiracy. The investigation is in progress. Therefore, he submits

that the prayer of the applicant for quashing of FIR may be rejected.

3. We have heard counsel appearing for the applicants and learned APP appearing for the State, and also carefully perused the investigation paper made available for perusal. On perusal of the investigation papers there are statements of the witnesses who have named the applicant and also overt acts are attributed to them. There are allegations that the accused conspired with each other, and also some incriminating material is seized by the Investigating Officer. In that view of the matter, the statements of the witnesses recorded by the Investigating Officer and the incriminating material collected by the prosecution during the course of the investigation can be tested only during trial. No case is made out for quashing the FIR. Hence the applications being devoid of merits stand rejected.

[S.M. GAVHANE, J.]

[S.S. SHINDE, J.]