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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 581 OF 2017

Manohar Pamandas Jani	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. M. S. Mohite i/b Mr. Sachin P. Rajepandhare for the Applicant

Mr. S. H. Yadav, A.P.P for the Respondent-State

API – Ranjeet Narayanrao Mane, Crime Branch, Solapur City is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 27th APRIL, 2017

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 65 of 2017 registered with the Vijapur Naka Police Station, Solapur City, for the alleged offences punishable under Sections 353, 354, 189, 509, 504, 506 of the Indian Penal Code.

3. Learned Counsel for the applicant submitted that the complaint is lodged by the Police Naik of the Vijapur Naka Police Station. He submits that the complaint is a false and concocted case. In support of the same, he relied on certain documents. He submitted that a Development Agreement was entered into between the applicant and one Rajendra Pathak on 22nd January, 2016 and that later, the applicant had cancelled the said Development Agreement and had also issued a Public Notice on 18th July, 2016 in the Newspaper. He further submitted that prior thereto, the Power of Attorney which was given by the applicant in favour of Rajendra Pathak as well as the Development Agreement (originals) were returned by Rajendra Pathak to the applicant. He further submitted that subsequent thereto, the applicant learnt that plots were being sold by Rajendra Pathak to various persons including the complainant, on the basis of the xerox copies of the said Development Agreement and Power of Attorney, He submitted that the complainant has purchased one plot from Rajendra Pathak. According to the learned counsel, the applicant on learning the same, approached the Police Authorities who directed him to lodge a complaint with the concerned Police Station. He submitted that when the applicant went to register the complaint, the complainant misbehaved with

him, pushed him on the ground and slapped him. The said incident is stated to have taken place on 1st February, 2016 at about 12:30 p.m. Pursuant thereto, the applicant immediately sent an SMS to the Deputy Commissioner of Police and Senior Inspector which reads as under :

“Anita Chavan at your police slapped twice hard thrown me on ground in front Birajdar no one is taking complaint. Kindly speak. Jani mp.”

On the next day, the applicant sent a formal complaint to the superiors.

4. Learned APP opposed the application. He submitted that the applicant had earlier verbally abused the complainant on 24th and 28th January, 2017 as is reflected in the complaint and had also made false and malicious allegations against the complainant. He submitted that there was no CCTV camera at the relevant time and that the said CCTV camera was installed only on 10th March, 2017 and therefore there was no question of recording of the said incident. He further submitted that the applicant has antecedents inasmuch as, there are 4 cases registered as against him; 2 cases for the alleged offences punishable under Sections 420 r/w 34 of the

Indian Penal Code lodged in 2003 and 2016; one case for the offences punishable under Sections 392, 385, 344, 347, 323, 504, 506, 120B of Indian Penal Code registered in the year 2001; and one case under the Electricity Act registered in the year 2002. He submitted that if the applicant is granted pre-arrest bail, he will put pressure on the prosecution witnesses and tamper with the evidence.

5. Perused the papers. It is not in dispute that the applicant had entered into an Development Agreement with one Rajendra Pathak on 22nd January, 2016 and had also given a Power of Attorney to Rajendra Pathak, both which were later cancelled by the applicant. A public notice was also issued on 18th July, 2016, in the Newspaper, stating that the said Development Agreement has been cancelled. It also appears that after the Development Agreement was cancelled, Rajendra had returned both, the Power of Attorney as well as Development Agreement (originals) to the applicant. It also appears that subsequent thereto, Rajendra had sold and was selling plots on the basis of the xerox copies of the Development Agreement and Power of Attorney to various persons, including the complainant. It appears that the complainant had purchased one such plot

from Rajendra on 20th November, 2016. When the applicant learnt about the said facts, he approached the police authorities, who directed him to lodge a complaint with the concerned police station, pursuant to which, the applicant went to lodge a complaint, when the alleged incident is stated to have taken place. *Prima-facie*, there was a conflict of interest, since the complainant herself, was the beneficiary of the land as she had purchased the said land from Rajendra, against whom the applicant had a grievance and wanted to lodge a complaint. It is also not in dispute, that the complainant herself has signed the Development Agreement and Power of Attorney, as an attesting witness. It also appears that applicant soon after the alleged allegations were made against him i.e. of outraging the modesty of the complainant, had sent a message on the very same day at 1.56 p.m. stating : “Anita Chavan at your police slapped twiced hard thrown me on ground in front Birajdar. No one is taking complaint. Kindly speak. Jani mp.” and on the next day sent a complaint. The alleged incident is stated to have taken place between 12.30 to 12.40 p.m., whereas the FIR was lodged at 9.00 p.m. Admittedly, none apprehended the applicant, aged 67 years, at the police station, despite police staff being present at the spot. All the witnesses are police witnesses and therefore the question of

tampering with the witnesses does not arise. In the facts, custodial interrogation of the applicant is not necessary.

6. Considering the aforesaid, the application is allowed and the applicant is granted pre-arrest bail on the following terms and conditions :-

ORDER

(i) In the event of the arrest, the applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount ;

(ii) The applicant shall report to Investigating Officer of Crime Branch Office, Solapur City, from 6th to 8th May, 2017 between 11.00 a.m. to 1.00 p.m., and thereafter as and when called for, till the filing of the charge-sheet;

(iii) The applicant shall not tamper with the evidence or attempt to influence the complainant, witnesses or any person concerned with the case and shall also refrain from making any personal and

derogatory allegations, as against the complainant;

(iv) The Applicant shall co-operate with the Investigating Agency.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie* and are confined to this application.

9. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)