

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

ANTICIPATORY BAIL APPLICATION NO.888 OF 2020

Firozkhan s/o Jabbarkhan Pathan,
Age : 35 years, Occu: Business,
R/o Jaindipura, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.

... Applicant
(Accused No.1)

VERSUS

The State of Maharashtra,
through Police Station, Gangakhed,
District Parbhani.

... Respondent

...

Advocate for Applicant : Mr. S.J. Salunke
APP for Respondent/State: Mr. V.M. Kagne

...

CORAM : MANGESH S. PATIL, J.

DATE : 05.11.2020

PER COURT :

The applicant is seeking Anticipatory Bail in connection with Crime No.416/2020 registered with Gangakhed Police Station for the offence punishable under Sections 353 and 504 of the Indian Penal Code as also for the offence punishable under Section 4 read with Section 3 of the Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2010 (hereinafter 'the Maharashtra Medicare Service Act').

2. The FIR has been lodged by a Medical Officer serving in the Sub-District Hospital, Gangakhed alleging that on 08.09.2020 when he

along with one Dr. Devidas Chavan were present in the hospital and were trying to shift couple of poison cases to Parbhani in an Ambulance, the applicant arrived there with a person and disclosed that he wanted to check blood pressure. When the informant asked Dr. Chavan to check the blood pressure, the applicant started shouting saying that he was not going to pay the amount of Rs.10/-. Then he started castigating doctors saying that they were not checking the patients and were referring them to their private hospitals. He also started saying that the doctors were extorting the patients. Somehow he was made to go out of the hospital but he went in front of the ambulance and again hurddle abuses at the driver of the ambulance.

3. The learned advocate Mr. S.J. Salunke submits that accepting the allegations in the FIR at their face value, necessary ingredients for constituting the offence punishable under Section 353 of the Indian Penal Code and Section 4 read with Section 3 of the Maharashtra Medicare Service Act cannot be made out. At the most the applicant can be said to have hurddled abuses and shouted at the doctors and the driver. There is no allegations about he having created any obstruction to them in discharging their public duties. Nothing is to be recovered from and discovered by the applicant. His custodial interrogation is not necessary and he may be granted Anticipatory Bail subject to usual conditions.

4. The learned APP opposes the application. He submits that it is in view of rise in the crime of this nature that the Maharashtra Medicare

Service Act has been promulgated. The very conduct of the applicant in entering in the hospital casting aspersion on the Medical Officer is sufficient to infer that he was intending to obstruct them from discharging the public duties. Matter being still at the stage of investigation, the application may be rejected.

5. Without indulging into scanning the material to ascertain if the allegations *prima facie* would constitute obstruction as is contemplated under Section 353 of the Indian Penal Code and Section 4 read with Section 3 and particularly definition of 'Violence' contained in Section 2 (i) of the Maharashtra Medicare Service Act, suffice to observe that there are no precise allegations about any obstruction by the applicant to the Medical Officer or the driver in discharging their public duties albeit for the time being it can be assumed that he had started shouting in the hospital and even hurled abuses and cast aspersions on the Medical Officer.

6. Be that as it may, there is nothing that needs to be discovered or recovered from the applicant. There are no criminal antecedents. The application deserves to be allowed.

7. The application is allowed. In the event of arrest of the applicant in connection with Crime No.416/2020 registered with Gangakhed Police Station for the offences punishable under Sections 353 and 504 of the Indian Penal Code as also for the offence punishable under Section 4 read with Section 3 of the Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or

Loss to Property) Act, 2010, he be released on bail on his executing personal recognizance for an amount of Rs.15,000/- and furnishing a solvent surety in the like amount subject to the following conditions:

- a) He shall attend the concerned police station as and when called by the Investigating Officer and shall co-operate him.
- b) He shall not tamper the evidence or repeat the crime.

(MANGESH S. PATIL, J.)

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