

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

912 CRIMINAL APPLICATION NO. 1959 OF 2020
IN
ANTICIPATORY BAIL APPLICATION NO. 868 OF 2020
WITH
CRIMINAL APPLICATION NO. 1961 OF 2020
IN
ANTICIPATORY BAIL APPLICATION NO. 869 OF 2020

SAMEER KHAN S/O. MATEEN KHAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Advocate for Applicant : Mr. S.S. Kazi.
APP for Respondent No. 1 : Mr. V.M. Kagne.
Advocate for Respondent No. 2 : Mr. M.S. Kulkarni.

CORAM : MANGESH S. PATIL, J.
DATE : 26.11.2020

Per Court :

These are the applications purportedly under Sub Section 2 of Section 301 of the Code of Criminal Procedure, seeking intervention in the anticipatory bail applications.

2. Learned Advocate Mr. Kazi submits that the offence involves forgery of a certificate regarding reservation of land under a Town Planning Scheme approved under Maharashtra Regional and Town Planning Act, 1966. The applicant intervener is highly interested. In fact, he had filed a Writ Petition

before the Division Bench of this Court soliciting a direction to carry out the investigation properly pursuant to the enquiry report of the Collector, Osmanabad. In Criminal Writ Petition No. 664/2020 dated 30.09.2020, this Court issued a direction to the police to carry out the investigation to ascertain if apart from the clerk of the Municipal Council some other official and beneficiaries were also involved. Learned Advocate Mr. Kazi, therefore, submits that when the Division Bench of this Court has entertained the Writ Petition of the intervener, he is entitled to oppose the applications for anticipatory bail.

3. Learned Advocate Mr. Kulkarni for the applicants in the anticipatory bail applications vehemently opposes the applications. He submits that the intervener is neither an informant nor a witness albeit he may be highly interested in prosecuting the applicants.

4. As can be gathered the allegations are to the effect that a property under reservation has been sold illegally. On the basis of an enquiry the Collector has concluded that the President of the Municipal Council had attempted to demonstrate that the property was not under reservation and allowed it being sold to his son.

5. The intervener in a common parlance may be highly interested. However, this being a matter of investigation of a crime, unless he has some information which would enable the Investigating Officer to conclude the investigation, his interest in prosecuting the applicants *ipso facto* would not be sufficient to allow him to assist the APP.

6. Admittedly, he is not the first informant. Independently, he is not coming with a specific stand that he has some special information about commission of the crime.

7. If such is the state of affairs, merely because he has filed a Writ Petition soliciting direction of the Division Bench of this Court for implicating all the offenders and not only the clerk of the Municipal Council, he cannot be said to have a *locus standii* which would enable this Court to allow him to assist the learned APP.

8. The applications are rejected.

(MANGESH S. PATIL, J.)