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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.453 OF 2021

Balaji s/o Vaijnath Acharya

... **APPLICANT**

VERSUS

The State of Maharashtra & anr.

... **RESPONDENTS**

.....

Shri Rajendra Deshmukh, Senior Counsel with
Shri Devang R. Deshmukh, Advocate for applicant
Shri S.W. Munde, A.P.P. for respondents, assisted by
Shri P.P. More, Advocate for complainant

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WITH

CRIMINAL APPLICATION NO.1065 OF 2021 IN
ANTICIPATORY BAIL APPLICATION NO.493 OF 2021

Sulochana d/o Dnyanoba Kadam

... **APPLICANT**

VERSUS

Balaji s/o Vaijnath Acharya & ors.

... **RESPONDENTS**

.....

Shri P.P. More, Advocate for applicant
Shri Rajendra Deshmukh, Senior Counsel with
Shri Devang R. Deshmukh, Advocate for respondent No.
Shri S.W. Munde, A.P.P. for respondent No.1

.....

WITH

ANTICIPATORY BAIL APPLICATION NO.493 OF 2021

Rahul s/o Rangnath Kambale

... **APPLICANT**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....

Shri Rajendra Deshmukh, Senior Counsel with
Shri Devang R. Deshmukh, Advocate for applicant
Shri S.W. Munde, A.P.P. for respondents

.....

WITH

BAIL APPLICATION NO.532 OF 2021

1. Dayanand @ Gahininath Vishwanath Acharya
2. Parsudhar @ Prashant s/o Bapurao Acharya
3. Kanchandas s/o Bapurao Acharya
4. Bharat s/o Pandhari Acharya ... **APPLICANTS**

VERSUS

The State of Maharashtra ... **RESPONDENT**

.....

Shri Rajendra Deshmukh, Senior Counsel with
Shri Devang R. Deshmukh, Advocate for applicants
Shri S.W. Munde, A.P.P. for respondents .

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**CORAM : R. G. AVACHAT, J.
(VACATION COURT)**

DATE : 28th MAY, 2021

ORDER :

Criminal Application No.1065/2021 is allowed.

The original complainant is permitted to assist learned A.P.P.

2. These three applications are decided by this common order. The applicants in Anticipatory Bail Application No.453/2021 and 493/2021 apprehend arrest in connection with Crime No.0067/2021, registered at Kingaon Police Station, District Latur for offence punishable under Sections 307, 354, 327, 338, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951 while the applicants in Bail Application are seeking their release on bail in connection with the aforesaid crime.

3. Heard learned counsel for the applicants. Perused the F.I.R. and the papers of investigation. The F.I.R. has been lodged by the victim herself. It is alleged in the F.I.R. that the informant along with her parents, sister and two younger brothers reside at village Kopra, Taluka Ahmedpur, District Latur. The applicants are alleged to have gathered outside the house of the informant at 1.00 p.m. on 12/3/2021. A JCB was also brought. The work of clearing and excavating the site in front of the house of the informant commenced. The informant, therefore, questioned the applicants as to why did they do so. The Village Sarpanch, Deputy Sarpanch and the Gramsevak (some of the applicants herein) refused to

respond to the questions of the informant. The applicant Gangadhar Depe, pushed the informant with stick, while the Deputy Sarpanch Balaji Acharya, Gramsevak and Sarpanch Gangadhar instigated to push the informant towards the JCB. It appears, there was a small temple. It is alleged that the applicants disgraced the idol of goddess. Even some of the applicants spat on a plaque of the temple. The applicant Parshuram pulled the informant with her hair. The applicant Balaji slapped in her face and took bite at her elbow. He also assaulted her with a stone. The applicant Kanchan assaulted on the head of the informant with iron pipe. The applicant Subhash Tailor relieved the informant of her cell phone. On their call, some women came and beat her up. The applicants Balaji, Kanchan, Gahininath and Rahul tried to outrage her modesty. They touched her private part. Gahininath gave a stone blow on her private part. The informant, therefore, suffered bleeding. Son of Mainabai fondled the informant's breasts. As such, all the applicants and some unknown persons behaved with the informant. She, therefore, lodged the F.I.R. while she was admitted in the hospital.

4. The learned A.P.P. would submit that, it is a serious offence against a weaker sex. the informant gave a

subsequent statement wherein the applicant in Anticipatory Bail Application No.493/2021 and applicants No.1 to 3 in Bail Application No.532/2021 put their private parts in her mouth. Custodial interrogation of the applicants is warranted. The applicants who have already been arrested deserve to be behind the bars. The learned A.P.P., therefore urged for rejection of the applications.

5. Shri Rajendra Deshmukh, learned Senior Counsel for the applicants took me through the documents on record to submit as to how a false and concocted F.I.R. has been lodged. I do not propose to reproduce his submissions since those would be the reasons for granting the applications.

6. The F.I.R. has been lodged a day after the alleged incident. Before registration of the present F.I.R., Crime was registered against the informant vide C.R. No.66/2021 for offence punishable under Sections 353, 332, 336, 427, 504, 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(r) and 3(1)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at the instance of Gramsevak of the village. The State Government sanctioned funds for construction of a Samaj Mandir to be

named after Dr. Babasaheb Ambedkar at village Kopra on the Grampanchayat property bearing No.275/1. The Village Panchayat also passed a resolution in that regard and decided to construct the Samaj Mandir for Scheduled Castes and Scheduled Tribe people in the village. The site is adjacent to the house of the informant. There are various documents on record to indicate that the informant and his family members were opposed to construction of the Samaj Mandir at the site near to their residence. There are further documents on record to indicate that the mother of the informant is a quarrelsome lady. She has been convicted by the Court of Judicial Magistrate, First Class in a criminal case. In January 2021 itself. i.e. about two months before the incident, the Sarpanch, Deputy Sarpanch and the Gramsevak (applicants herein) had made a communication to the Officer Incharge of the Police Station, Kingaon, alleging that the informant had threatened them of filing a complaint regarding outraging of her modesty. The said threat was given as the encroachment made by her was sought to be removed for the purpose of construction of Samaj Mandir. The Block Development Officer, vide his letter dated 10/3/2021, had requested the Assistant Police Inspector to provide police protection for removal of the encroachment to be undertaken on 12/3/2021. Such

communication/ correspondence did take place between the Assistant Police Inspector and the Block Development Officer in August/ September 2020 as well. On 6/3/2021, i.e. seven days before the alleged incident, a non-cognizable case was registered against the informant and her family members at the instance of the Gramsevak (one of the applicants). The Gramsevak had made a written complaint to the police station, alleging the informant and her family members to have threatened him of lodging a complaint of outraging her modesty since she was served with a notice for removal of encroachment.

7. As such, there is voluminous material on record to indicate that the Government has sanctioned funds for construction of a Samaj Mandir at the village. The work thereof was to be commenced in March 2021 at the site on which or its around there were encroachments. The informant is said to be one of the encroachers. She opposed to the construction of the Samaj Mandir. The Gramsevak has already made a complaint to the police station alleging the informant to have been threatening him and others of lodging a false complaint regarding outraging of her modesty if the work of construction of the Samaj Mandir is commenced.

True, some incident did take place. The F.I.R. was immediately lodged against the informant. The present F.I.R. came to be registered 24 hours after the alleged incident. Some of the allegations in the F.I.R. do not appeal to the reason. The F.I.R. is replete with exaggeration and concocted version. The complainant claims to have had a bleeding from her private part due to the assault. The Medical Officer who had examined the informant has ruled out an assault on her private part. The informant did not stop at that. Post registration of the F.I.R., she gave a statement alleging applicant in Anticipatory Bail Application No.493/2021 and applicants No.1 to 3 in Bail Application No.532/2021 to have put their private parts in her mouth. I do not propose to make any further observations as to what kind of person the informant is. Suffice it to say that there is delay of over 24 hours in lodging of the F.I.R. The informant had a reason to lodge a false information or at least to give a colourful version of a minor tiff. The apprehension expressed by the Gramsevak that a false complaint about outraging her modesty is likely to be made appears to have come true. For all the aforesaid reasons, I am inclined to grant the applications. Hence the order :-

ORDER

(i) Anticipatory Bail Applications Nos.453/2021 and 493/2021 are allowed. In the event of arrest of applicants in connection with Crime No.0067/2021, registered at Kingaon Police Station, District Latur for offence punishable under Sections 307, 354, 327, 338, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951, the applicants shall be released on bail on their executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) each with one surety in the like amount.

(ii) The applicants shall appear before the investigating officer as and when required. The applicants shall not tamper with the prosecution evidence.

(iii) Bail Application No.532/2021 is allowed. The applicants shall be released on bail in connection with Crime No.0067/2021, registered at Kingaon Police Station, District Latur for offence punishable under Sections 307, 354, 327, 338, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian

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Penal Code and Section 135 of the Maharashtra Police Act, 1951 , on executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

(iv) The applicants shall not tamper with the prosecution evidence.

**(R. G. AVACHAT)
JUDGE**

fmp/-