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

**920 ANTICIPATORY BAIL APPLICATION NO.674 OF 2020**

Vandana d/o Ramdas Kochure

… **Versus** …

The State of Maharashtra and another

…

Mr. R.S. Deshmukh, Senior Counsel I/b Mr. D.R. Deshmukh and Mr. Govind Kulkarni, Advocates for applicant

Mr. V.M. Kagne, APP for State

…

**WITH**

**ANTICIPATORY BAIL APPLICATION NO.709 OF 2020**

**WITH**

**CRIMINAL APPLICATION NO.1551 OF 2020**
**IN ABA/709/2020**

Jyoti w/o Ashok Pagare

… **Versus** …

The State of Maharashtra and another

…

Mr. H.V. Tungar, Advocate for applicant

Mr. V.M. Kagne, APP for State

…

**CORAM : SMT. VIBHA KANKANWADI, J.**

**DATE : 06th JANUARY, 2021**

**ORDER :**

1 Both the applicants are apprehending their arrest in connection with Crime No.272/2018 dated 06.11.2018 registered with Kotwali Police Station, Parbhani, for the offence punishable under Section 420, 465, 466, 467, 468, 469, 471, 472, 473, 474, 406, 409, 118, 120 of the Indian Penal Code.

2 Both the applicants are public servants. Applicant in Anticipatory Bail Application No.674/2020 is Deputy Commissioner and Member of the District Caste Scrutiny Committee, Dhule, whereas applicant in Anticipatory Bail Application No.709/2020 is serving as Awwal Karkun in the office of Tahsildar at Parbhani. Criminal Application No.1551 of 2020 is filed by the applicant in Anticipatory Bail Application No.709 of 2020 for production of documents.

3 Heard learned Senior Advocate Mr. R.S. Deshmukh instructed by learned Advocate Mr. D.R. Deshmukh and learned Advocate Mr. Govind Kulkarni for the applicant in Anticipatory Bail Application No.674 of 2020, learned Advocate Mr. H.V. Tungar for the applicant in Anticipatory Bail Application 709 of 2020 as well as Criminal Application No.1551 of 2020 and

learned APP Mr. V.M. Kagne for the State in all these applications.

4 It has been vehemently submitted on behalf of the applicant in Anticipatory Bail Application No.674 of 2020 that in 2010 the applicant joined the Government service as District Social Welfare Officer at Aurangabad. After serving at many places she was promoted to the post of Deputy Commissioner in 2017 and she is the de-facto Member of the Caste Scrutiny Committee. She was posted at Parbhani district and thereafter transferred to Dhule in 2019. First Information Report has been lodged on 06.11.2018 in respect of some forgery in the documents of citizens in respect of their caste certificates. Perusal of the First Information Report would show that the occurrence of the offence was on 06.07.2017 and after about one year and four months the FIR has been lodged. It is alleged by the informant, who is the Tahsildar, that his attention was invited by one of the employees working with Tahsil Office on 25.04.2017 that an original caste verification file has been called at District Caste Scrutiny Committee. It was found that some erasers have been made and rewriting has taken place. Further, internal inquiry has stated to have taken place and the original record was directed to be traced out, which showed some erasers and forgery or preparation of false documents in respect of the caste certificates of the relatives of one Mohd. Khairuddin Mohd. Ibrahim. He has pointed out that

some erasers have been made in the record in respect of other candidates also and after taking necessary permissions he has filed the FIR. It has been pointed out by the present applicant that all the documents, which the investigating agency requires, are available with the Caste Scrutiny Committee office in Parbhani and since 2019 she is serving at Dhule, she is not the custodian of the record. In fact, the orders have been passed by the Committee, of which the applicant is a Member and it was a Quasi-Judicial Authority. In fact, when she was working at Parbhani, she wrote a complaint application to Superintendent of Police, Parbhani on 03.07.2018 to report a menace of persons perpetrating to be “agents” of the District Caste Scrutiny Committee and who were representing the citizens that they should avail their services. No step was taken for weeding out those unscrupulous element. Now, it appears that certain witnesses have stated against the present applicant, but in order to have investigation the custody of the present applicant is not required. The investigation can go on as it is dependent on the documents, which are not in custody of the applicant. Her name has been included just to harass her with mala fide intention, as she had made complaint against the unscrupulous elements. Learned Advocate for the applicant prayed for grant of anticipatory bail and it was further submitted that in view of the interim protection granted by this Court on 13.08.2020 the applicant has reported to the Police Station and cooperated with the Investigating Officer.

5 The learned Advocate representing the applicant in Anticipatory Bail Application No.709 of 2020 and Criminal Application No.1551 of 2020 submitted that she took charge of the table from one Smt. Suwarnkar, who is now transferred to another district. She was the Record Keeper and had issued certificate dated 18.05.2017, which was given to one Abdul Javed Abdul Rashid in respect of the entries in Khasra Patrak of the caste certificate scrutiny of one Mohd. Nayeemuddin Mohd. Yaseen. Whatever certificate has been given by her on the basis of the record and she had no concerned with any earlier record. It was then reported by said Mohd. Yayeemuddin Mohd. Yaseen that word "Momin" has not been included, which is in fact, erased. In fact, said Mohd. Nayeemuddin is stated to have been issued with validity certificate in 2007 and at that time, word "Momin" was there. Even if we take the contention of Mohd. Nayeemuddin as it is; yet, he was talking about the certificate, which was issued in the year 2007, when the present applicant was not handling the said table. When she took charge, she was not aware about the already tampered record. In fact, District Collector, Parbhani, vide letter 06.11.2015 to Tahsildar, Parbhani, has specifically stated that the documents, which were issued by Smt. Suvarnkar, are doubtful and she has issued false document, and therefore, the inquiry should be made through

Central Crime Branch. When the applicant was not even aware about the changes, those were effected in the record, her physical custody is absolutely not required. On this count, the learned Advocate for the said applicant also prayed for the anticipatory bail.

6 Per contra, the learned APP strongly opposed the application and also pointed out the affidavit-in-reply filed by Mr. Amol Vilas Gaikwad, Deputy Superintendent of Police, Parbhani (Rural) having Additional charge of Economic Offence Wing, Parbhani. Most of the part of affidavit is reiteration of the contents of the First Information Report and then he has stated that the District Collector, Parbhani along with Superintendent of Police, Parbhani prepared teams of Revenue Officers and Police Officers and had raided house of accused and suspects. During the said raid documents of Tahsil Office, Parbhani were found in the house of accused Sayed Fazal @ Abrar. Even some seal of Tahsil Office, Parbhani and documentation was also found from one suspect Advocate Khaja Bahauddin. From the house of accused Shaikh Shafaik some documents were also found. It is stated that considering the investigation made and expected involvement of various persons the investigation was transferred to Economic Offence Wing. He has then submitted that the applicant in Anticipatory Bail Application No.674 of 2020 had *modus operandi* to keep the proposals of caste scrutiny pending.

There was huge criminal conspiracy between the accused persons directly or indirectly for extracting money and the modes adopted were – keeping proposals pending, invalidating pending proposals for want of money and invalidating the valid caste certificates by raising complaint through dummy persons or the relatives of accused persons. Statements of the witnesses recorded showed that the applicant in Anticipatory Bail Application No.674 of 2020 used to demand lacs of rupees for issuance of Caste Certificate. The other applicant i.e. the applicant in Anticipatory Bail Application No.709 of 2020, was the Record Keeper and was definitely responsible for handling the record, in which those changes have been made. Further, during the investigation it has also been transpired that the applicants were in continuous communication with the other accused persons and the Investigating Officer has tallied the call detail records. Under such circumstance, the physical custody of the applicants are required.

7 At the outset, it can be seen from the First Information Report lodged by the Tahsildar that the occurrence in respect of document is stated to be on 06.07.2017. But if we peruse the FIR in detail then it can be seen that the thing was firstly realized on 25.04.2018, when one of his employees brought to his notice four letters dated 16.03.2018 in respect of four different persons and the said letter was issued by District Caste Scrutiny committee,

Parbhani for production of true copies or originals. Thereafter the Tahsildar had taken inspection of the documents and found out erasers, additions and/ or manipulations. He has given other 14 items, which he found out in the documents, but then he says that all these things have been taken place prior to July, 2017. Now, the question is, as to exactly when these things had happened. As regards the applicant in Anticipatory Bail Application No.674 of 2020 is concerned, how she could be related to offence under Section 420, 465, 466, 467, 468, 469, 471, 472, 473, 474, 406, 409, 118, 120 of the Indian Penal Code, is a question. Though it has been stated by the Investigating Officer that the call details record have been collected, those have not been produced for the perusal of this Court. If the prosecution intends to say that she was party to the preparation of fake documents, then at least it should be cleared that exactly when that offence is committed. It is not clear at least from the documents, those have been produced, at this stage, before this Court that offence has been committed between 2017 to 2019, that is during her tenure. Perusal of the statements of certain witnesses would show that now they are saying that the applicant used to demand huge amount for issuance of the document. They were not remedyless at that point itself to knock the doors of police or appropriate authority, when she had allegedly demanded the amount for issuance of certificates. It is not the case of the prosecution that at any point of time during the tenure of the applicant in Anticipatory Bail Application No.674 of 2020 the disputed documents were handled by the applicant. If those documents were in the custody of the Tahsil Office, then how the applicant could have committed the forgery, is a question. And if the prosecution intends to say that it is through somebody, then that kind of evidence is not produced.

8 In respect of the applicant in Anticipatory Bail Application No.709 of 2020 is concerned, almost similar situation is there. Her role is stated to be the Record Keeper. But then unless it is pointed out that the offence i.e. erasers, additions, manipulations have been made during her tenure itself, the connection cannot be established. A complaint by Mohd. Nayeemuddin Mohd. Yaseen dated 13.11.2017 would disclose that he was issued with the validity certificate in the year 2007 and prior to that by letter dated 06.12.2006 the then Tahsildar had given letter to him that there is no erasers in the Khasra Patrak of Sy.No.56, but now the eraser is there. From this fact, it will not be cleared as to whether after 06.12.2006 till 18.05.2017 when that eraser or addition would have been made. Merely because presently the applicant in Anticipatory Bail Application No.709 of 2020 is the custodian we cannot say that she has made it. These factors are taken into consideration. In view of the personal liberty the applicants are enjoying and

whether on such basis of allegations whether that liberty can be curtailed. Answer is definitely in the negative. Note will have to be taken in respect of the document, that has been produced by the said applicant, which appears to be the letter given by District Collector, Parbhani to Tahsildar, Parbhani on 06.11.2015 in respect of the conduct of one Smt. Suvarnkar, who was the then Awwal Karkun and it is stated in that communication that the said lady is found to be issuing such document, of which there is no entry in the register.

9 Taking into consideration all these aspects the physical custody of the present applicants is not necessary for the purpose of investigation and the said investigation still can be carried out by securing their presence before the Investigating Officer. The applicant in Anticipatory Bail Application No.674 of 2020 was granted interim protection by this Court, earlier, and the said order deserves to be confirmed. Hence, following order.

**ORDER**

1 All the applications stand allowed.

2 The ad-interim protection, granted by this Court earlier to applicant in Anticipatory Bail Application No.674 of 2020 viz. Vandana d/o Ramdas Kochure vide order dated 13.08.2020, is hereby confirmed and made

absolute. In other words, if the applicant is not formally arrested, in the event of arrest of the applicant, in connection with Crime No.272/2018 dated 06.11.2018 registered with Kotwali Police Station, Parbhani, for the offence punishable under Section 420, 465, 466, 467, 468, 469, 471, 472, 473, 474, 406, 409, 118, 120 of the Indian Penal Code, she be released on P.R. and S.B. of Rs. 15,000/- (Rupees Fifteen Thousand only).

3 In the event of arrest of the applicant viz. Jyoti w/o Ashok Pagare in Anticipatory Bail Application No.709 of 2020, in connection with Crime No.272/2018 dated 06.11.2018 registered with Kotwali Police Station, Parbhani, for the offence punishable under Section 420, 465, 466, 467, 468, 469, 471, 472, 473, 474, 406, 409, 118, 120 of the Indian Penal Code, she be released on P.R. and S.B. of Rs. 15,000/- (Rupees Fifteen Thousand only).

4 Both the applicants shall not indulge in any criminal activity nor they should tamper with the prosecution evidence, in any manner.

5 They should cooperate with the investigation and shall attend the concerned Police Station on every 2nd and 4th Saturday between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

**( Smt. Vibha Kankanwadi, J. )**

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