

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

**923 ANTICIPATORY BAIL APPLICATION NO.924 OF 2020**

VISHNU NIVRUTTI KADAM

VERSUS

STATE OF MAHARASHTRA

...

Mr. A.B. Ghule Patil, Advocate h/f Mr. D.M. Wagh, Advocate for applicant

Mr. A.M. Phule, APP for respondent

...

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

**DATE : 07<sup>th</sup> JANUARY, 2021.**

**PER COURT :**

1            Heard learned Advocate Mr. A.B. Ghule Patil holding for learned Advocate Mr. D.M. Wagh appearing for the applicant and learned APP Mr. A.M. Phule for the State.

2            It has been submitted on behalf of the applicant, who is apprehending his arrest, in connection with Crime No.268/2020 dated 31.07.2020 registered with Chandanjira Police Station, Tq. & Dist. Jalna, for the offence punishable under Section 353, 504, 506, 500, 501, 502 read with Section 34 of the Indian Penal Code, that perusal of the FIR would show that it has been lodged belatedly. The incident has stated to have been taken place on 28.07.2020 in the office of Maharashtra Pollution Control Board,

M.I.D.C., Jalna, however, the FIR came to be lodged on 31.07.2020. The learned Advocate representing the applicant also tried to submit that the applicant has been falsely involved. Taking into consideration the fact that being a Journalist he was writing about the irregularities and misdeeds of the informant in his daily newspaper since prior to the FIR and so also, that he was not even present at the time of the alleged incident as stated in the FIR. The custodial interrogation of the applicant is not necessary, and therefore the learned Advocate canvassed for pre-arrest bail.

3            Learned APP strongly opposed the application and submitted that the custodial interrogation of the applicant is necessary. Taking into consideration the conduct of the applicant, further, two of the co-accused have been arrested and the fact that though the applicant is a journalist he cannot in such a way barged into the Government office and interrupt public servants from discharging their duties. The informant had written a letter to Collector, Jalna regarding the behaviour of the present applicant. The investigation is in progress and if the applicant is released on bail on the basis of the fact that he is a Journalist, then it will give a wrong message to the society at large.

4            At this stage, though there appears to be some delay in lodging the FIR; yet, we cannot say that it is fatal. It would be a very premature

stage to give any opinion in that respect. Further, every delay can be explained at the time of trial and whether it is fatal or not will have to be considered by the concerned Trial Court.

5           Contents of the FIR would show that in all four persons had gone to the public office of the Maharashtra Pollution Control Board, disclosed their identity as Journalists and they were insisting that their say should be heard by the Government Officer by keeping aside the Government work. The informant says that she had tried to convince them by saying that the priority should be to the Government duty and she had a meeting with Collector, and therefore, she had requested them to wait; yet, according to the informant, they threatened her to lodge a complaint against her and behaved arrogantly with her. It is also to be noted that in her FIR she has stated that on the next day in the newspaper “Sanjwarta” and “Gokul Niti” some defamatory article was published against the informant, and therefore, it has been taken by the informant as defamation of herself as well as her office that it is not discharging its Government duty. No doubt, in our democracy everybody has the Constitutional right of expression and also Constitutional right of speech, but it is not unfettered. Merely, a person is a Journalist he does not get the blind licence to print anything or speak about anything. There are parameters and rules, which are Governing, which will

have to be adhered to. As regards the plea of *alibi*, which has been tried to be canvassed on behalf of the applicant is concerned, it cannot be considered at this stage, as it will have to be proved by the applicant at the time of trial. The applicant has not produced any such documentary evidence on record, which would show that since prior to the date of information he was writing any article in respect of the working of the informant or the working of the said board. Therefore, those submissions cannot be appreciated for want of any documents.

6           Even after taking into consideration the contents of the FIR it can be definitely stated that the physical custody of the present applicant is not required. Though the allegations are about the arrogant behaviour of the applicant, the parameters for considering an application under Section 438 of the Code of Criminal Procedure have been laid down in **Siddharam Satlingappa Mhetre vs. State of Maharashtra and others, 2011(1) SCC 694**. Therefore, taking into consideration the above said criteria, definitely the physical custody of the applicant is not required and making him available for the purpose of investigation would suffice, it will not hamper the progress of the investigation also. Therefore, suitable conditions are required to be imposed. Further, at this stage itself it will have to be clarified that for such behaviour though the applicant may not be agreeing at this stage, he will

have to deposit costs of Rs.1,000/- to the High Court Legal Services Sub Committee, Aurangabad for the bona fides. Hence, following order.

**ORDER**

1           Application stands allowed.

2           In the event of arrest of the applicant, in connection with Crime No.268/2020 dated 31.07.2020 registered with Chandanjira Police Station, Tq. & Dist. Jalna, for the offence punishable under Section 353, 504, 506, 500, 501, 502 read with Section 34 of the Indian Penal Code, he be released on P.R. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand only).

3           He shall not tamper with the evidence of prosecution, in any manner.

4           He shall not indulge himself in any criminal activity. He should remain present before the Investigating Officer on every Monday and Thursday between 10.00 a.m. to 12.00 p.m., till filing of charge sheet.

5           Applicant to deposit an amount of Rs.1,000/- (Rupees One Thousand only) before the High Court Legal Services Sub Committee, Aurangabad, within a period of one week from today.

( Smt. Vibha Kankanwadi, J. )