

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1079 OF 2020

Rajesh s/o Sakharam Chavan,
Age 42 years, Occupation Agril.,
R/o Kawada Tq. Jintur Dist.Parbhani. **...Applicant.**

VERSUS

The State of Maharashtra,
Through Police Inspector,
In Crime No.83/2020 dated 16-10-2020
Bamni Police Station Tq.Jintur
Dist. Parbhani. **...Respondent**

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Advocate for Applicant : Mr. D. M. Mane h/f
Mr. N. R. Pawade.
APP for Resondent-State : Mr. S. Y. Mahajan.
Advocate for Assist to APP : Mr. P. D. Jarare h/f
Mr. S. S. Thombre.
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CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving The Order :
18-12-2020**

**Date of Pronouncing The Order :
05-01-2021**

ORDER :

1. Present application has been filed by the original accused who is apprehending his arrest in connection with Crime No.83 of 2020, dated

16-10-2020, registered with Bamni Police Station Tq. Jintoor Dist. Parbhani, for the offences punishable under Section 353, 323, 504, 506 of Indian Penal code.

2. Heard learned Advocate Mr. D. M. Mane h/f Mr. N. R. Pawade for applicant, learned APP Mr. S. Y. Mahajan for Respondent-State, who has been assisted by Advocate Mr. P. D. Jarare h/f Mr. S. S. Thombre for the informant.

3. It has been vehemently submitted on behalf of the applicant that the applicant was officiating the post of Sarpanch of village Kawada during 2017-2018. He was disqualified from the said post on the complaint lodged by the rival group. Thereafter, the said post was filled, however there were several irregularities on the part of the newly elected Sarpanch. Under those circumstances, the applicant had lodged detailed complaint. One of the ground was that the newly elected Sarpanch has not held the mandatory meetings of the Grampanchayat. The Gramsevak was also party to the said proceedings and the applicant had levelled allegations against the Gramsevak. Learned District Collector conducted the inquiry and held that the Gramsevak as well as the Sarpanch have failed in not conducting monthly meetings, and thereafter, the newly

elected Sarpanch was also disqualified from the said post. Now the said Gramsevak has lodged the FIR against the applicant on 16-10-2019. It has been alleged that the Gramsevak had gone to take photographs of the constructed house which was constructed under 'Gharkul Scheme' under the Pradhan Mantri Awas Yojana. The Gramsevak contends that the applicant had restrained the Gramsevak from doing his public duty by catch holding of his collar, abusing him and threatening him. In fact, no such incident as narrated had taken place. The FIR is nothing but the concocted story and in order to take revenge of the complaint that was lodged by the applicant. The allegations levelled against the applicant are improbable as the applicant is not the office bearer of the Grampanchayat any more and in fact he was not even concern with the affairs of the Grampanchayat including the Gharkul Yojana. The FIR is politically motivated at the behest of the rival group. The physical custody of the applicant is not required, and therefore, he be released on pre-arrest bail.

4. Per contra, the learned APP assisted by Advocate Mr. P. D. Jarare holding for Mr. S. S. Thombre representing the original informant vehemently submitted that the applicant has created a

terror in the village. Though he has been disqualified long back, he was indulged in such activities which will hamper the proceedings of the Grampanchayat. It is his usual affair to terrorize the public servants and in fact he is involved in seven cases, out of which four are against a public servant. When he himself intends to pose himself as a public servant in a sense that he was Sarpanch of the Grampanchayat then such activities on his part cannot be tolerated. There is prima facie evidence in the form of statements of eye-witnesses which would show that the contents of the FIR are not concocted or false. Case is not made out to grant the anticipatory bail in the extra-ordinary jurisdiction of the Court.

5. At the outset, it is to be noted that the applicant himself has clarified that he was Sarpanch of the village between 2017-2018, however he was disqualified. It appears that again the elections were held and another Sarpanch was appointed, yet as per the submissions, the said newly elected Sarpanch has also been disqualified and the grounds for disqualification of the present applicant and his successor appears to be the same that they had not held the monthly meetings. The informant is the Gramsevak. Even if he would have been involved then the law will take its own

course, however since he is a public servant, he was bound to discharge his public duties. As per the contents of the FIR he was directed by Engineer attached to Panchayat Samity, Jintoor orally on 15-10-2020 that he should sent the photographs of those houses constructed under 'Pradhan Mantri Awas Yojana'. According to him he was along with other persons taking the photographs and at that time this applicant intercepted them, abused him, slapped him and then by holding collar of his shirt he was manhandled. Definitely prima facie it can be seen that what the informant was doing was his official duty and the Ex-Sarpanch cannot be said to be justified in behaving in such manner. Statements of eye-witnesses have been recorded under Section 161 of CrPC as well as under Section 164 of CrPC. Further the most glaring part is that the present applicant is involved in seven offences which are as follows : -

- "1) Crime No.19 of 2008, registered with Bamni Police Station, for the offences punishable under Section 353, 324, 337, 323, 147, 148, 149, 504 of IPC.
- 2) Crime No.20 of 2008, registered with Bamni Police Station, for the offences punishable under Section 324, 337, 147, 148, 149, 323, 504 of IPC.
- 3) Crime No.46 of 2008, registered with Bamni Police Station, for the offences punishable under Section 337, 323, 504, 506, 34 of IPC.
- 4) Crime No.48 of 2008, registered with Bamni

Police Station, for the offences punishable under Section 353, 332, 294, 323, 506, 147, 148, 149 of IPC and under Section 135 of Bombay Police Act.

5) Crime No.55 of 2010, registered with Bamni Police Station, for the offences punishable under Section 325, 323, 504, 506, 34 of IPC.

6) Crime No.35 of 2019, registered with Bamni Police Station, for the offences punishable under Section 353, 447, 504, 506 of IPC.

7) Crime No.83 of 2020, registered with Bamni Police Station, for the offences punishable under Section 353, 323, 504, 506 of IPC.”

No doubt some of them are registered in 2008 and the applicant has produced only one Judgment of Crime No.48 of 2008 i.e. Regular Criminal Case No.207 of 2008 for the offences punishable under Section 353, 332, 294, 323, 506, 147, 148, 149 of IPC and under Section 135 of Bombay Police Act resulting in his acquittal. He has not produced any Judgment of any other offences. Therefore, those criminal antecedents are also required to be considered and taking into consideration all those aspects, case is not made out to grant the exceptional relief under extra-ordinary power of this Court to release the applicant by granting pre-arrest bail. Hence, application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-