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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO. 2268 OF 2021**

Harish Krishna Bhandirge .... Applicant

Vs.

The State of Maharashtra .... Respondent

Mr. Abhinav Chandrachud i/by Mr. V.T. Dubey for Applicant.  
Mr. A.R. Kapadnis APP for State

**Coram : NITIN W. SAMBRE, J.  
Date : 6<sup>th</sup> OCTOBER, 2021**

P.C.:

1. This is an application for grant of pre-arrest bail under Section 438 of Code of Criminal Procedure.

2. The applicant, a Municipal Councilor, Bombay Municipal Corporation was booked under Crime No. 544 of 2021 on 15<sup>th</sup> September, 2021 for the offence punishable under Sections 353 and 506 of the Indian Penal Code.

3. The complainant, Nitin Kulkarni, the Assistant Engineer alleged that he is posted in the Water Supply Department. On 13<sup>th</sup> September, 2021, when he was in his office discharging his official duty, the applicant, who is elected from Ward No. 164 as a Councilor called from his mobile No. 9892821293 at around 11.30 am. and abused him in most filthy language. As a consequence, the aforesaid offence came to be registered.

4. Mr. Chandrachud, learned counsel appearing for the applicant assisted by Mr. Dubey would urge that the necessary ingredients of Sections 353 so also 506 of the Indian Penal Code are not made out. According to him, the allegations against the applicant cannot be termed to be an assault within the meaning of Section 351 of Indian Penal Code and that being so, necessary ingredients of Section 353 of Indian Penal Code are not satisfied. It is further claimed that even necessary ingredients of Section 506 are also not made out from the allegations. The further contention is that the applicant has been falsely Implicated.

5. Learned APP while opposing a prayer for grant of bail would claim that the applicant is a public servant / elected representative has conducted himself in a most dignified manner and not befitting his status. The abusive words used against the applicant are with an intention to deter public servant from discharging his official duty and that being so, the application is liable to be rejected.

6. Considered submissions.

7. The status of the applicant as that of elected Councilor to the Bombay Municipal Corporation and complainant's posting as Assistant Engineer in the Water Supply Department is not in dispute.

8. The complainant at relevant time when the alleged incident had taken place was discharging his official duty of recalling water supply to the concerned area, which admittedly falls within the constituency of the applicant.

9. The calling on mobile of the complainant by the applicant is not the fact, which is disputed by the applicant.

10. It is claimed by him that he called the applicant in view of grievances made by the residents of his locality about short supply of water, however, it is required to be noted that the complainant has no animosity against the applicant as he is neither political competitor of the applicant nor has any other grudge against the applicant. The elected representative of people like the applicant are required to conduct themselves in a most dignified manner.

11. The applicant, appears to have used most filthy language, words thereby abusing the applicant after his mother etc. on phone and further threatened him of assault by visiting his office.

12. The least that was expected of the applicant is to understand the problems of staff of the Corporation and find solution to the issues. The conduct of the applicant, elected representative is nothing short of demoralising the officers and trying to establish his supremacy.

13. Perusal of the contents in the F.I.R. depicts that the freedom of speech, exercised by the applicant is in most indecent manner and speaks of his complete violent, power hungry act.

14. The applicant, who is named as an accused in F.I.R. held a responsible elected office of Councilor of the Municipal Corporation. The law with equal force applies to him as is applied to the other citizens. There is no immunity conferred on the applicant about the provisions of the criminal law and as such same with equal force applies to the applicant.

15. The manner and mode in which the applicant has conducted himself is not recognized in any of the Code rather it was open for the applicant, for any default on the part of the complainant to take up issue with senior officer, which he has failed to.

16. There is prima facie material against the applicant in the crime in question. That being so, no case for bail is made out. Hence, the application is rejected.

**( NITIN W. SAMBRE, J. )**