

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.228 OF 2022

VITTHAL S/O SADABA WAGHMARE
VERSUS
THE STATE OF MAHARASHTRA

....
Advocate for Applicant : Mr. G. G. Suryawanshi and J. B. Paikrao
APP for Respondent-State : Mr. B. V. Virdhe
....

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 08-04-2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.14 of 2022, registered with Loha Police Station, District Nanded, for the offence punishable under Section 353, 504, 506 of Indian Penal Code.
2. Heard learned Advocate Mr. G. G. Suryawanshi for applicant, learned APP Mr. B. V. Virdhe for respondent-State.
3. The learned Advocate appearing for the applicant vehemently submitted that the applicant is a 62 years old practicing Advocate in Loha Court. He had filed proposal under Section 85/2 of Maharashtra Land Revenue Code for taking the mutation in the name of his client on 12-07-2021 before Tahsildar Office. The office of Tahsildar had

issued notice on 08-12-2021 to the parties stating that the next date of the hearing fixed as 28-12-2021. The applicant had gone to Tahsil Office on 25-12-2021 about the inquiry, however, the informant behaved arrogantly with the applicant and threatened him that she would lodge the report. The applicant has been falsely implicated. Further, in the FIR it is stated that the application filed through the applicant by his client was disposed of by the Tahsildar on 25-12-2021 itself. When the notices those were issued were on the date 28-12-2021, then how in advance, there can be disposed of the application. No such incident as alleged in the FIR has taken place, and therefore, the applicant deserves to be released on anticipatory bail.

4. The learned Advocate for the applicant alternatively submitted that if at all there is any iota in the statement made by the informant, then the applicant is repenting for his acts, may be because of the fact that the Tahsildar had not adopted the proper procedure, and before the due date the application was dismissed, he would have got annoyed. The applicant is ready to show his bonafides by depositing amount with any authority as per the directions of this Court.

5. The learned APP strongly opposed the application and submitted that the applicant is Advocate still there are criminal antecedents. He is involved in Crime No.86 of 2012 under Section 279, 337 of IPC, Crime No.10 of 2010 under Section 395, 452, 323, 504 r.w.34 of IPC, Crime No.64 of 2010 under Section 395 of IPC, Crime No.68 of 2009 under Section 341, 504, 506 of IPC. The applicant is an Advocate, and in view of said fact that he is an Advocate if he is threatening a public servant, then he does not deserve any discretionary relief.

6. At the outset, it is to be noted that the informant is a public servant serving as Awal Karkun with Tahsil Office, Loha. She states that on 19-01-2022 she was carrying out her own official work and at about 12.35 p.m. applicant went in her office and started asking as to why she has dismissed the application filed by him. He also started asking as to whether she has right to dismiss the application. He blamed that she has done it purposely and then abused her. He took the files from her table and put them down. The papers got scattered. Threats were given that since he is Advocate, he would see everyone of the persons who were present there. In that process, the applicant had raised his hand to slap her. But since she

cried the other employees gathered. The informant states that the Tahsildar had rejected the said application by taking hearing on 25-12-2021, still on 19-01-2022 the applicant was insisting as to why it has been done.

7. After taking into account the contents of the FIR and the police papers, it can be seen that there are supporting statements of the witnesses who are the employees from the Tahsil Office. No doubt, there is nothing to be recovered from the custody of the applicant, but such kind of behaviour by an Advocate is absolutely not justifiable. Whatever he had filed the application might have been wrongly disposed of, yet he can advise his client to file appeal, but the way in which it is stated that he behaved, cannot be said to be justified. He is having his own defenes which he will have to establish at the time of trial. But the fact remains is that she was not the person who had given the said decision. It was decided by Tahsildar, and therefore, the applicant could have asked any questions to be asked to said Tahsildar and not to Awal Karkun. It can also be seen that the Advocate of age of 62 years does not know how to behave with a lady. Yet, taking into consideration his age and the fact that he has permanent place of abode, his profession,

he deserves protection under Section 438 of Cr.P.C. The criminal antecedents cannot be considered in this case because it has not been brought on record as to whether those offences are still pending. Latest position is required to be then considered.

8. Now the applicant appears to have remorse or in a way alternatively he is showing repentance. This is also one of the reason as to why this Court is exercising discretionary power in favour of the applicant, and therefore, necessary directions in that respect are required to be given while releasing the applicant on anticipatory bail. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) In the event of arrest of the applicant Vitthal s/o Sadaba Waghmare, in connection with Crime No.14 of 2022, dated 19-01-2022, registered with Loha Police Station, District Nanded, for the offence punishable under Section 353, 504, 506 of IPC, he be released on P.R. Bond of Rs.30,000/- with two solvent sureties of Rs.15,000/- each.

3) He shall attend the Police Station on every Sunday between 10.00 a.m. to 02.00 p.m., till filing of charge-sheet.

4) He should deposit amount of Rs.10,000/-(ten thousand) to the High Court Legal Services Subcommittee, Aurangabad, on or before 13-04-2022.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.