

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

16 ANTICIPATORY BAIL APPLICATION NO.307 OF 2022

NARAYANSINGH BANKATSINGH THAKUR

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. G.V. Wani, Advocate h/f Mr. S.S. Randive, Advocate for the applicant

Mr. V.M. Kagne, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 04th APRIL, 2022

PER COURT :

1 The applicant is apprehending his arrest in connection with Crime No.379/2020, dated 12.11.2020 registered with Sonpeth Police Station, Dist. Parbhani, for the offence punishable under Section 420, 467, 468, 471 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. G.V. Wani holding for learned Advocate Mr. S.S. Randive for the applicant and learned APP Mr. V.M. Kagne for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 The First Information Report has been lodged by one Ram Kashinath Waghmare on 12.11.2020 and it is stated that the said offence had taken place on 23.04.2007. Therefore, at the outset, there is huge inordinate delay in lodging the First Information Report. Though this fact was considered by learned Additional Sessions Judge, Gangakhed, Dist. Parbhani while dealing with application under Section 438 of the Code of Criminal Procedure by the present applicant and when the concerned Court rejected the bail application on 04.03.2022, it can be certainly said that the rejection is in a mechanical way, that too, without application of mind. Merely saying that the offence is serious in nature and custodial interrogation is necessary, is not the ground for rejecting application. Though this Court is not sitting in appeal under this application, rather this application before this Court is under the same provisions of law; yet, it can be said that the learned Additional Sessions Judge had not considered at all the constitutional rights of the applicant, when even if we take the contents of the First Information Report as it is that offence was committed in the year 2007 and till 2020 there was absolutely no step taken by the informant to lodge a report. One more fact that can be seen from the contents of the First Information Report that alleged fact of preparation of false documents came to the knowledge of the informant on 14.12.2015; yet, at that time also there was no such attempt to lodge the report. When the constitution enshrines rights upon the

citizens, it is for the Courts to protect them. No doubt, those rights are not absolute, but they come with restrictions. But when in such cases when there is inordinate delay, we cannot consider those restrictions, but then the balance should be tilt in favour of the constitutional rights of the person, against whom the allegations are made, in such First Information Report.

4 The informant has stated that land bearing Sy. No.121 admeasuring 19 Acres 24 Gunthas situated at village Bhambarwadi, Mahatpuri was an *Inam* land and the *Inam* was then abolished. Thereafter it was received by his grandfather in the year 1962, for which his grandfather had deposited amount of Rs.318.96ps. to the Government on 29.09.1965. Mutation Entry was sanctioned to that extent. He then says that after years i.e. after his grandfather and father expired, he had taken the certified copy of *Jod Takta* and he came to know that name of his grandfather was deleted and name of one person by name Maruti Narayan Shinde has been inserted. He then took out certain more documents from Tahsil office and then he came to know that the then Tahsildar and Clerk dealing with *Inam* tenant had conspired with each other and gave letter to Land Development Office, Parbhani on 23.04.2007 that the amount of Rs.318.96ps. was paid by Maruti Narayan Shinde on 23.11.1963. There is no mention about the deposit of the said amount in *Jod Takta*. Thereafter there was proceeding in respect of

Mutation Entry No.2672 and 309 before Sub Divisional Officer, Gangakhed and report was called in 2015 from the then Tahsildar. He accordingly informed the said fact again. According to the informant, Maruti Shinde's birth date is actually 01.01.1967. He could not have made any payment on 23.11.1963 and, therefore, the informant says that the then Tahsildar and Clerk had conspired with each other and to give benefit to Maruti Shinde they have forged the document. It is to be noted that the present applicant was the then Tahsildar, who had retired in the year 2012. As aforesaid, there is huge and inordinate delay in lodging the First Information Report and the said delay has not been explained at all in the First Information Report. Even if for the sake of argument we accept that a wrong or incorrect information was supplied by Tahsildar; yet, what could have been the gain of the present applicant, is a question. There are no allegations of corruption against the applicant in the First Information Report. The investigation in respect of the offence alleged is depending on the documents and certainly they are not in possession of the present applicant. It was the official communication and the Investigating Officer is at liberty to search those official records. The interim protection granted earlier to the applicant deserves to be confirmed. Accordingly, it is confirmed. Hence, following order.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to
applicant vide order dated 21.03.2022, is hereby confirmed and made
absolute. In other words, if the applicant is not formally arrested, in the
event of arrest of the applicant viz. **Narayansingh Bankatsingh Thakur** in
connection with Crime No.379/2020, dated 12.11.2020 registered with
Sonpeth Police Station, Dist. Parbhani, for the offence punishable under
Section 420, 467, 468, 471 read with Section 34 of the Indian Penal Code,
1860, he be released on PR. Bond of Rs.30,000/- (Rupees Thirty Thousand
only) with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand
only) each.

3 Applicant shall not indulge in any criminal activity nor he should
tamper with the evidence of the prosecution, in any manner.

4 Applicant shall cooperate with the investigation and shall attend
Sonpeth Police Station, Dist. Parbhani, on every Wednesday and Friday,
between 10.00 a.m. to 12.00 noon, till filing of charge sheet.

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