

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.407 OF 2022

KIRAN S/O GAUTAM BANSODE
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. G. J. Kore, Advocate for applicant.
Mr. B. V. Virdhe, APP for the respondent – State.

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 27.04.2022

ORDER :-

. The applicant is apprehending his arrest in connection with Crime No.139 of 2022 registered with Ambad Police Station, Dist. Jalna for the offences punishable under Sections 353, 506 of Indian Penal Code.

2. Heard learned Advocate Mr. G. J. Kore for the applicant and learned APP Mr. B. V. Virdhe for the respondent – State.

3. The learned Advocate for the applicant after narrating the contents of the FIR submits that the applicant has been falsely implicated. The applicant is the Upsarpanch of village Mardi. Sarpanch and other members of village Grampanchayat are from opposite political party. The said group always finds opportunity to implicate the

applicant. Now also because of the instigation of Sarpanch it appears that the FIR has been lodged, because the Sarpanch has been shown as witness. The FIR has been politically motivated and, therefore, the custodial interrogation of the applicant may not be necessary. The contents of the FIR do not constitute offence under Section 353 of Indian Penal Code. Alternatively, the learned Advocate for the applicant also submitted that the applicant is repenting for his act and in order to show bona fides, he is ready to deposit amount with any institution as directed by this Court.

4. Per contra, learned APP strongly opposed the application and submitted that even the applicant is the representative of the political party and also now representing the Grampanchayat. He cannot behave in such manner with a Gramsevak, who is a public servant and he is working for the Grampanchayat. The custodial interrogation of the applicant is necessary and, therefore, the application be rejected.

5. At the outset, it is to be noted that the informant is a Gramsevak and it has been contended that when he had received a phone call on his mobile and he asked as to who is talking. The other person from the another end told him that he is Upsarpanch. In a way this conversation that has been stated is not appealing. It is hard to believe that the

Gramsevak will not have the mobile number of Upsarpanch and the informant states that he is serving there since last about five years. However, the threat was given to him on phone and then it is stated that the applicant along with his friend came on motorcycle and slapped the informant in presence of villagers. Definitely, these acts do disclose ingredients of Section 353 of Indian Penal Code, however, nothing is to be recovered from the applicant. Custodial interrogation of the applicant is not necessary and there is no hurdle in accepting the alternative submission of the learned Advocate for the applicant since the applicant is showing repentance. By showing such kind of repentance, it cannot be stated that he is accepting his guilt. Ultimately, prosecution will have to prove the case beyond reasonable doubt. At this stage, the application deserves to be allowed. Hence, the following order :-

ORDER

- I) Application is hereby allowed.
- II) In the event of arrest of applicant – Kiran Gautam Bansode in connection with Crime No.139 of 2022 registered with Ambad Police Station, Dist. Jalna for the offences punishable under Sections 353, 506 of Indian Penal Code, he be released on P. R. Bond of Rs.30,000/- with two solvent sureties of Rs.15,000/- each.

III) The applicant shall remain present before the Investigating Officer as and when directed and co-operate with the investigation.

IV) He shall not tamper with the evidence of the prosecution in any manner.

V) He shall not indulge in any criminal activity.

VI) The applicant to deposit amount of Rs.10,000/- with the High Court Legal Services Sub Committee, Aurangabad on or before 04.05.2022.

[SMT. VIBHA KANKANWADI, J.]

scm