

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.412 OF 2022
WITH
CRIMINAL APPLICATION NO.1355 OF 2022

BANDU @ RAVIRAJ JALBA DUDHKAWADE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. G.P. Shinde, Advocate for the applicant

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

Mr. Ravindra Nirmal, Advocate for assist to APP

...

CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 13th APRIL, 2022

PRONOUNCED ON : 28th APRIL, 2022

ORDER :

1 Criminal Application No.1355 of 2022 moved for assist to APP stands allowed and disposed of.

2 The applicant is apprehending his arrest in connection with Crime No.9/2022 dated 31.01.2022 registered with Tamsa Police Station, Dist. Nanded, for the offence punishable under Section 452, 395, 323, 504, 506 of the Indian Penal Code, 1860.

3 Heard learned Advocate Mr. G.P. Shinde for the applicant and
learned APP Mr. V.M. Kagne, well assisted by learned Advocate Mr. Ravindra
Nirmal for the informant.

4 It has been vehemently submitted on behalf of the applicant that
there are two political groups in village Kandali (Kh). One group is headed
by the present applicant, whereas another is of Sarpanch. The applicant had
filed complaint against the Sarpanch for misappropriation in the funds of 14th
and 15th Finance Commission to Grampanchayat, so also, he had given notice
of hunger strike. Therefore, in order to have an upper hand the Sarpanch has
managed to lodge the report through his associate. Admittedly there are
strained relations between the two groups. The Sarpanch and his persons
had badly beaten applicant and, therefore, applicant had lodged report
against the Sarpanch and his persons. On that count also this is the counter
blow. In fact, no prima facie case has been made out against the present
applicant. As the applicant is continuously pursuing action to be taken
against the Sarpanch for the corruption that has been done in the
construction work, the offence has been lodged. The applicant is ready to
abide by the terms of the bail.

5 Per contra, the learned APP, well assisted by learned Advocate

Mr. Ravindra Nirmal, submits that the political rivalry is a double edged weapon and, therefore, when the applicant says that he has lodged the report, it may be equally applicable to him also that he would have lodged the false report. But we are required to consider the facts in this case and what are the allegations. The First Information Report is filed not only against applicant but also against son and other persons. The informant was present at that time and, therefore, he had given statements against the applicant and, therefore, the applicant was annoyed with him. He had given him phone call which was received on the mobile of the nephew of the informant asking as to why statement has been given against him. Abuses were given but thereafter in the evening the applicant and other persons, who were 10 in number, came and by abusing the informant and his family members asked as to why they were giving statement against the applicant. Stones were pelted on the house of informant and then informant's nephew and wife were assaulted by kicks and fist blows as well as sticks. When the informant was trying to persuade them, at that time, the applicant had snatched five gram gold ring from the right hand finger of the informant, so also, took away amount of Rs.30,000/- from him. It is stated that not only by acting so the applicant had stopped but he had threatened that if informant would depose against him he would be killed as well as his house would be put to fire and would be involved in false case. Thereafter it is stated that the

applicant and his persons went to the house of one Bapurao Jagdeorao Suryawanshi and Nitin Vilas Dalve who had also given statement against the applicant and by entering their house, assaulting them, they had taken away the gold ornament as well as cash. Therefore, in fact, it is a series of offence and all those persons have been got examined medically. Some of them have sustained simple injuries. When there is such evidence and there are statements of witnesses in support of prosecution story the applicant does not deserve to be released on bail, merely on the count of some political rivalry.

6 At the outset, there appears to be some political angle to the dispute because the applicant had produced on record his representations to the Collector, Nanded demanding inquiry in the alleged misappropriation/ corruption in the work done under 14th and 15th Finance Commission, and it is much prior to the date of the alleged incident. Further, there appears to be a First Information Report lodged at the instance of present applicant at about 1.00 hours on 31.01.2022 and he lodged report against the said Sarpanch and others under Section 143, 147, 148, 149, 326 of the Indian Penal Code, 1860 and under Section 3(1)(s), 3(1)(r), 3(1)(e) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The informant in this case is not accused in that First Information Report. That incident stated to have taken place at about 5.00 p.m. on 29.01.2022.

So, there may be apparent delay in lodging that First Information Report. But so far as the present First Information Report is concerned, it also appears to be a belated First Information Report and it is also in respect of an incident dated 29.01.2022 between 5.30 to 6.00 p.m., but then it is stated that it had happened in the house of the informant. He has also stated about the information received by him in respect of the incident that had taken place in the house of Bapurao Jagdeorao Suryawanshi and Nitin Vilas Dalve by the present applicant. The police papers show that the statements of all these persons have been recorded and they were referred for medical examination. Some of them have simple injuries, however, they all are consistently saying that from the house of the informant after beating informant, his wife and nephew gold ring and cash of Rs.30,000/- was stolen, whereas from the house of Bapurao Jagdeorao Suryawanshi gold ornaments and cash of Rs.85,000/- were forcibly taken away and from the house of one Nitin Vilas Dalve cash amount of Rs.60,000/- was taken away by the applicant along with his men. In view of this prima facie evidence case is not made out for grant of extraordinary discretionary relief under Section 438 of the Code of Criminal Procedure. Application stands rejected.

(Smt. Vibha Kankanwadi, J.)