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

**ANTICIPATORY BAIL APPLICATION NO.1085 OF 2022
WITH APPLN/2793/2022 IN ABA/1085/2022**

DNYANESHWAR S/O. SOPAN GITE

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Doke Kishor R.

APP for Respondent/State : Mr. S.B. Narwade

Advocate for Assist to P.P : Mr. Bachate h/f Mr. A.B. Girase

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CORAM : S.G. MEHARE, J.

DATED : 29th AUGUST, 2022

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel Mr. Bachate for the complainant.
2. Learned counsel for the applicant would submit that a false report has been lodged against him. The applicant is a Zilla Parishad Member. He used to agitate for the public cause hence, various crimes were registered against him. In most of the cases, report under Section 169 of the Criminal Procedure Code was filed. At present, only two crimes are pending against him. However, those crimes have no concern with the present crime. Therefore, the prosecution cannot blame the applicant as habitual offender. So far as the allegations in the present FIR are concerned, the applicant's sister-in-law did not called him in the field. But the false allegations

have been levelled against him that he was called in the field where the dispute between the complainant and the sister-in-law of the applicant was going on. Only to show the applicant down, he has been falsely implicated in the crime. He has caused no injury to the injured. Therefore, he may be released on anticipatory bail.

3. Per contra, the learned APP and learned counsel Mr. Bachate for the complainant have vehemently opposed the application contending that the applicant is the influential person. He is involved in various crimes. He has assaulted the injured with sickle and caused injury. He has referred to the injury report. It has been vehemently argued that the offence is serious. Therefore, the custodial interrogation of the applicant is essential.

4. Learned counsel Mr. Bachate appearing for the complainant has vehemently argued that in earlier case, the applicant has misused the liberty that goes to show his conduct. It seems that it has a separate cause of action and separate remedy is available for breach of conditions and it is always subject to the examination of the breach of conditions by the Court granting bail.

5. Perused the FIR. It has been alleged that the sister-in-law of the applicant called applicant in the field on phone. The applicant went there and assaulted the injured with sickle from back. However, the injury does not correspond to the alleged weapon used. The medical officer has opined that the injuries have been sustained due

to hard and blunt object. All the injuries were simple in nature. The weapon allegedly used is a sharp weapon. The injury does not correspond to the alleged weapon. The counter report has been lodged against the complainant. That goes to show that there was a quarrel. It is very easy in India to make the allegations and involve any person in the crime. It is also seen that the litigants have the tendency to exaggerate the allegations to make the offence serious. In most of the cases, the allegations appears to have been made, that deadly weapon is used, but the injury certificate does not correspond to the alleged weapon. The applicant has fairly conceded that he used to agitate against the Government for the public cause. However, many cases have been registered against him and most of them have been disposed of and reports under Section 169 of the Criminal Procedure Code were filed in his favour. It seems that the applicant is a public figure. He is the member of the Zilla Parishad, so he may have number of enemies. The Investigation Officer did not make the investigation as regards the phone call made by the sister-in-law of the present applicant calling him on the spot. This material investigation is lacking. So considering the absence of such material evidence and no corresponding injuries that may be caused due to the sharp weapon like sickle, it raises the doubt about allegations. In the circumstances, the benefit would go to the applicant. Hence, the application deserves to be allowed. Hence, the following order :

ORDER

(A) The Application is allowed.

(B) In the event of arrest, the applicant, Dnyaneshwar Sopan Gite, be released on anticipatory bail on executing P.B. and S.B. of Rs.50,000/- (Fifty Thousand) with one solvent surety in the like amount in Crime No.167 of 2022 registered with Washi Police Station, District Osmanabad for the offence punishable under Sections 307, 354, 324, 323, 504, 506 of the Indian Penal Code, on the condition that he shall attend the police station on 03.09.2022, 04.09.2022 and 05.09.2022 between 11.00 am to 01.00 pm.

(C) Criminal Application No.2793 of 2022 is allowed.

(S.G. MEHARE, J.)