

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1592 OF 2021

1. KARBHARI S/O NIVRUTTI LOKARE
2. MUKTIRAM S/O DHONDIBA MULE
VERSUS
THE STATE OF MAHARASHTRA

...
Ms. Ashwini A. Lomte h/f Mr. S. J. Salunke, Advocate for the applicants.
Mr. A. M. Phule, APP for the respondent – State.
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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 19.01.2022

PER COURT :-

1. Heard learned Advocate Ms. Ashwini Lomte holding for learned Advocate Mr. S. J. Salunke for the applicants and learned APP Mr. A. M. Phule for the respondent.
2. Applicants are apprehending their arrest in connection with Crime No.262 of 2021 dated 26.11.2021, registered with Sonpeth Police Station, Dist. Parbhani, lodged by one Kushwarto Walmik Munde, for the offence punishable under Sections 353, 427, 323, 504, 506 read with Section 34 of Indian Penal Code, 1860.
3. It has been submitted on behalf of applicants that applicants have been falsely implicated. There appears to be political rivalry between the

Sarpanch and the applicants and the informant was, in fact, acting as per the say of Sarpanch. There was no supply of clean water to the villagers and, therefore, the applicants were agitating as to why the plant that was installed for cleaning the water is closed. There was no intention on their part to deter any public servant. No such incidence of using criminal force had taken place. Custodial interrogation of the applicant is not required for the purpose of investigation. He is ready to abide by the terms of the bail.

4. Per contra, the learned APP has strongly opposed the application, on the ground that the contents of First Information Report and statements of the witnesses recorded so far disclose specific role of the applicants. Informant is the public servant and knowing it well, still the applicants had used criminal force against him to deter him from doing his official duty. Offence is serious and there is *prima facie* evidence against applicants. They does not deserve pre-arrest bail.

5. Perusal of the FIR would show that informant is the Gramsevak at Grampanchayat Dhamoni. On 21.11.2021 the meeting was held for discussing the Prime Minister Housing Scheme. The Sarpanch of village was presiding over the meeting. The other members of Grampanchayat were also present. The informant had also attended the meeting as

Gramsevak. The applicants had raised issue about supply of purified water through filter which was not in operation. The Sarpanch told them that the issue about Prime Minister Housing Scheme is being discussed and the question raised by the applicants is not the subject matter of the meeting, she will call another meeting regarding water filter plant. Thereafter, the accused abused the informant and the Sarpanch. When one Shridhar Mule, who is the servant of Grampanchayat, was taking signatures, accused went there and snatched property records of Gramsabha and destroyed the papers. It is further stated that the accused threatened the informant, they pushed Sarpanch and assaulted the son of Sarpanch. Hence, the First Information Report has been lodged against present accused persons.

6. The contentions in the First Information Report definitely give an impression that physical custody of the applicants may not be required for the purpose of investigation, as well the purpose would be served if attendance is given. The defence raised by the applicants need not be considered, at this stage, as they have to establish the same during the course of trial. However, it can certainly said that nobody should indulge in the act of deterring a public servant. Informant is the Gramsevak of Grampanchayat, Dhamoni and, therefore, she is a public servant. It is then stated that for a particular purpose, Gramsabha was

organized on 26.11.2021 for which an advance notice was issued on 21.11.2021. Many persons were attending the Gramsabha, but only the present applicants had raised the problem about clean water supply. The Sarpanch was saying that purpose of the Gramsabha was different, but then as above stated acts have been done by the applicant. When it is stated that criminal force was applied by the applicants, the offence has been registered. The applicants cannot act with the ladies in such a way in Gramsabha, however, as aforesaid, their physical custody is not required for the purpose of investigation. Therefore, even while granting protection of pre-arrest bail to the applicants, conditions deserve to be imposed on them including payment of costs. Hence, following order.

ORDER

- i) Application stands allowed.
- ii) The ad-interim protection, granted by this Court earlier to the applicant vide order dated 23.12.2021, is hereby confirmed and made absolute. In other words, in the event of arrest of the applicants viz. 1. Karbhari Nivrutti Lokare and 2. Muktiram Dhondiba Mule, in connection with Crime No.262 of 2021, registered with Sonpeth Police Station, Dist. Parbhani, for the offence punishable under Sections 353, 427, 323, 504, 506 read

with Section 34 of Indian Penal Code, 1860, they be released on PR. Bond of Rs.20,000/- (Rupees Twenty Thousand only) with one or more sureties in the like amount.

iii) The applicants shall not tamper with the evidence of the prosecution, in any manner.

iv) The applicants shall not indulge in any criminal activity.

v) They should remain present before the Investigating Officer on every Monday and Friday between 11.00 a.m. to 02.00 p.m. till filing of the charge-sheet and co-operate with the investigation.

vi) Applicants to deposit cost of Rs.5,000/- (Rupees Five Thousand only) each with the High Court Legal Services Authority Sub-Committee, Aurangabad, within a period of one week.

[SMT. VIBHA KANKANWADI, J.]

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