

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 824 OF 2021**

Priyanka Balasaheb Deokate

... Petitioner

V/s.

Sureshsingh R. Gaud And Ors.

... Respondents

Ms. Rekha Musale i/b Mr. Nitin Rajguru for Petitioner.
Mr. Ajay Patil APP, for Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 19th DECEMBER, 2022.

P.C. :

1. By the present Petition under Article 226 of the Constitution of India, the Petitioner, Original Accused No.6 as per the charge-sheet in C.R. No. 421 of 2017 dated 31st August, 2017 registered with Baramati Taluka Police Station, Pune, has prayed to declare that, the arrest/detention of Petitioner by Respondent Nos.1 to 11 on 31st August, 2017 at 6.30 p.m. till 3.00 p.m. of 1st September, 2017 is illegal and bad in law ; to direct Respondent No.14 to initiate action against Respondent Nos. 1 to 11 for violation of provision of sub-section 4 of Section 46 of the Code of Criminal Procedure (for short "Cr.P.C.") and to hold departmental inquiry against Respondent No.1 to 13 for illegal arrest/detention of the Petitioner and for direction to Respondent Nos.1 to 11 to pay the compensation of

Rs.5,00,000/- to the Petitioner for her illegal detention.

2. Heard Ms. Musale, learned Advocate for Petitioner and Mr. Patil, learned APP for Respondent-State. Perused entire record annexed to the Petition.

3. Record reveals that, Petitioner and her close family members are accused in C.R. No. 421 of 2017 dated 31st August, 2017 registered with Baramati Police Station, District Pune. The said crime is registered on the basis of complaint lodged by Ms. Komal A. Dangane, Section Engineer, Pandare Irrigation Sub-Division, Branch Malad, Malegaon Colony, Taluka Baramati, District Pune.

4. Ms. Komal A. Dangane, a public servant employed with the Government on the said irrigation scheme had on 31st August, 2017 informed Respondent No.1 that, the residents of 24 Phata Minor 5 canal namely Rajendra Y. Devkate, Shivaji A. Devkate, Balasaheb A. Devkate, Yashwant A. Devkate, Priyanka B. Devkate, Puja B. Devkate and Mangal B. Devkate had obstructed the flow of the irrigation canal by putting a *bandh* of stones and hard soil. Due to their said act, the flow of water was obstructed and about 200 acres of agricultural land was affected due to the same. That, despite making repeated requests to the said persons, they did not remove the said obstruction and became aggressive. The continuous flow of water for the benefit of other agriculturists cultivating land of about 200 acres was necessary and therefore the said obstruction was to be removed. The Officers

of Irrigation Department were intending to remove the said unauthorized obstruction erected by Petitioner and her family members and therefore they requested Police to provide police protection. Accordingly Respondent Nos.1 to 11 alongwith other residents of the said place and agriculturalist went at the scene of offence. The Officers of Irrigation Department initially requested Devkate family members to remove said obstruction. However, they resisted public servants from performing their lawful duty. The woman members of Petitioner's family took boulders in their hands and tried to assault staff of Irrigation Department. They also tried to cause injuries to themselves. At that time, Petitioner instigated her sister Puja B. Devkate to consume pesticide and to commit suicide. Puja B. Devkate thereafter all of sudden went into her house and consumed Global Geycoph Li Herbicide. The police personnel at the scene of offence immediately rushed Puja to Silver Jubilee Hospital and admitted her there. The said fact was informed to Tehsildar, Baramati, District Pune. As the police felt that, situation at the said place was going out of control, they detained Petitioner on 31st August, 2017 at about 6.00 p.m. She was brought to police station alongwith other accused persons. The fact of her arrest was informed to her close relatives.

A crime bearing No. 421 of 2017 was thereafter lodged on the basis of the report given by Ms. Komal A. Dangane, Branch Engineer of the Irrigation Department. After completion of investigation police have submitted charge-sheet in the Court of Judicial Magistrate First Class,

Baramati, District Pune.

5. The aforestated facts have been deciphered from the station diary entries and First Information Report (FIR) and other statements of witnesses. The record indicates that, it is the Petitioner who instigated her sister to consume said pesticide when the police alongwith the staff of Irrigation Department had been to the scene of offence for removing the obstruction constructed by the Petitioner's family members in the said canal. It was therefore necessary for the police to adopt preventive action against Petitioner and her family members. Exceptional circumstance was created by Petitioner by instigating her sister Puja B. Devkate (Accused No.7) to consume the aforestated pesticide at the scene of offence and to create undue disturbance with a view to prevent public servants from performing their lawful duty. Therefore Respondent Nos.1 to 11 were left with no other option than to detain Petitioner in police station from 6.30 p.m. of 31st August, 2017 till she was produced before the learned Magistrate on the next date.

6. After perusing entire record we are of the considered view that, the arrest/detention of Petitioner by Respondent Nos. 1 to 11 on 31st August, 2017 at 6.30 p.m. till 3.00 p.m. of 1st September, 2017 is neither illegal nor in violation of sub-Section 4 of Section 46 of the Cr.P.C.. It clearly appears to us that, the Petitioner with a view to create defence in her favour in the trial arising out of C.R. No.421 of 2017 and/or to pressurize the police officers,

who have investigated the said crime i.e. Respondents herein, have filed present Petition with malafide intention.

7. We find that, there are no merits in the Petition and is accordingly dismissed.

[PRAKASH D. NAIK, J.]

[A.S. GADKARI, J.]