

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1306 OF 2021

Prakash S/o. Saundaji Patil Applicant

Versus

The State of Maharashtra Respondent

.....

Mr. Rajendra Deshmukh, Senior Advocate i/b Mr. Devang Deshmukh, Advocate for the Applicant

Mr. A.V. Deshmukh, APP for Respondents – State

Mr. N.E. Deshmukh, Advocate for the Informant.

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 22nd FEBRUARY, 2023

ORDER :

1. The applicant apprehends his arrest in connection with Crime No. 205 of 2021 registered with Ashti Police Station, District Beed for the offence punishable under sections 409, 467, 468, 471, 120-B read with 34 of the Indian Penal Code and under section 52 (A) of the Wakf Act, 1995.

2. Aminu Jama Khiliku Jama, District Wakf Officer, Beed lodged complaint alleging that land baring survey Nos. 31, 32 and 35 are the Wakf properties, which were under the management of *Inamdar* namely Irshan Nawab Khan and

Aslam Nawab Khan. They have illegally mutated their names in the revenue record, and have illegally obtained the order dated 09/03/2018 regarding abolition of *inam*, and declaration that, lands in question are community service *inam* lands (*Madad-mash*), and they are illegally dealing with the said lands.

3. During the course of investigation, 15 accused including present applicant were added in the said crime. The applicant at the relevant time was serving as Deputy Collector, Beed. It is alleged that he in connivance with other accused persons, illegally passed orders converting Class-II land to Class-I land without intimation to the Wakf Board.

4. Heard learned advocate for the applicant, learned Additional Public Prosecutor for the State and the learned advocate for the informant. Perused the documents placed on record.

5. Learned Additional Public Prosecutor opposed the application stating that the applicant was well aware of the Government gazette issued in the year 1974 and could not have passed order converting land from Class-II to Class-I.

6. The fact remains that the applicant being Deputy Collector has passed the order in a quasi judicial capacity, and the same order is amenable to challenge before the appropriate forum. The applicant can claim protection of Judges (Protection) Act, 1985.

7. It is revealed during the course of argument that charge-sheet is filed in the present crime on 30/10/2021, and the case is numbered as RCC No. 165 of 2021.

8. The prosecution case is based on documents, which are already seized by the Investigating Officer. Nothing is to be recovered from the applicant. The applicant was granted interim protection and he has co-operated in the investigation, and in view of completion of investigation and filing of charge-sheet, pre-trial custodial detention of the applicant is not necessary.

9. Learned Additional Public Prosecutor submits that investigating officer has reserved his right to conduct further investigation under section 173(8) of Cr.P.C., if any material is found during the course of further investigation, the prosecution may be given liberty to apply for cancellation of

anticipatory bail. This liberty is always there with the prosecution.

10. In the result, the application is allowed. In the event of arrest of the applicant in connection with Crime No. 205 of 2021 registered with Ashti Police Station, District Beed for the offence punishable under sections 409, 467, 468, 471, 120-B read with 34 of the Indian Penal Code and under section 52 (A) of the Wakf Act, the applicant shall be released on executing Personal Bond of Rs.15,000/- with one surety in the like amount.

11. The applicant shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE

S.P Rane