

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1639 OF 2022

Rama @ Ramaji Pilaji Pathawe Applicant

Versus

The State of Maharashtra
and another Respondents

.....
Mr. Satyajeet S. Dixit, Advocate for the Applicant
Mr. A.v. Deshmukh, APP for for Respondents – State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 23rd JANUARY, 2023

ORDER :

1. The applicant apprehends his arrest in connection with Crime No.346 of 2022, registered with Akole Police Station, District Ahmednagar for offences punishable under sections 191, 196, 197, 198, 199, 200, 420 of the Indian Penal Code and section 7(1) of Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jaties*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of Caste Certificate Act, 2000.

2. *Naib* Tahsildar has lodged FIR against 10 accused persons, wherein applicant is arrayed as accused No.1.

It is the allegations of the prosecution that accused Nos. 2 to 9 with the help of present applicant have obtained forged documents, which were presented before the Caste Scrutiny Committee. The Sub Divisional Officer has stated that, no such documents, which were presented by accused Nos. 2 to 9 before the Scrutiny Committee were issued by his office. It is revealed that the documents, which were presented by accused Nos. 2 to 9 were procured by the present applicant. Thus, FIR is lodged against the accused persons.

3. Heard the learned advocate for the applicant and learned Additional Public Prosecutor for respondents. Perused the investigation papers.

4. Learned advocate for applicant strenuously submits that FIR is required to be held as not maintainable in view of Division Bench decision of this Court in ***Vilas and others Vs. State of Maharashtra and others*** reported in **2015 ALL MR(Cri.) 4025**. By relying on the provisions of Section 7 and 11 of Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jaties*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of Caste Certificate Act, 2000, he submits that the FIR lodged against the present applicant is

not maintainable. By relying on anticipatory bail granted in favour of co-accused persons, he submits that on the ground of parity also the applicant deserves anticipatory bail.

5. Learned Additional Public Prosecutor, on the other hand, opposed the application submitting that the ground on which anticipatory bail was granted in favour of co-accused was totally different. By relying on Division Bench decision in ***Vilas and others Vs. State of Maharashtra and others*** (supra), this Court has held that FIR is not tenable against co-accused persons. The case of the applicant is different. The applicant was not before the Scrutiny Committee, and therefore, the FIR filed by the *Naib* Tahsildar against the applicant is maintainable. He submits that the applicant has prepared and/or obtained forged documents, which were supplied to co-accused persons, which they presented before the Scrutiny Committee. He therefore submits that custody of the applicant is necessary for the purposes of investigation. Therefore, applicant is not entitled for discretionary relief of anticipatory bail.

6. Reliance placed by the learned advocate for the applicant in ***Vilas and others Vs. State of Maharashtra and others*** (supra) is misconceived. The ground of parity raised by

the learned advocate is not acceptable in view of the allegations made against the applicant.

7. The co-accused persons were before the Scrutiny Committee, and therefore, by relying on ratio in ***Vilas and others Vs. State of Maharashtra and others*** (supra), this Court held that FIR lodged against co-accused persons is not tenable.

8. The present applicant was not before the Scrutiny Committee at any point of time, and therefore, he cannot claim that FIR filed against him is not tenable in view of ratio in ***Vilas and others Vs. State of Maharashtra and others*** (supra).

9. For the aforesaid reasons, the application is rejected.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane