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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1766 OF 2023

Laxman Vithalrao Kanake

APPLICANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....
Mr. S. R. Bagal h/f Mr. B. N. Gadegaonkar, Advocate for applicant
Mr. A. R. Kale, APP for respondent - State
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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 12th FEBRUARY, 2024

ORDER :

1. Applicant apprehends arrest in Crime No.5 of 2023 registered with Sindkhed Police Station, District - Nanded for offence punishable under sections 420, 465, 468, 471 of the Indian Penal Code.

2. FIR is lodged by Pradip Kadam, Talathi, Tahsil Office Kinwat against unknown persons alleging that, land in survey No. 167, ad measuring 1 Hectare 44 Are is standing in the name of Sapna Arun Rathod and said land has been purchased by Arun Chandrabhan Rathod on 21st August, 1996 from Shankar Kapura Jadhav vide registered sale deed. Thereafter, the said land was mutated in the name of Arun and later on it was mutated in the

name of his wife Sapana Arun Rathod, bearing mutation entry No. 596. It is further alleged that, Arun Chandrabhan Rathod was serving at Mumbai in the Government Office, at that time one unknown person, by moving an application changed the nature of land as non-agriculture land on 1st November, 2023 and also made plotting on said land bearing plot Nos. 1 to 64. It is further alleged that in the Gram Panchayat, it has been recorded as property No. 279. In the year 2016, Arun Rathod came to know about it and on 22nd June, 2016 he moved an application for cancellation of NA. Accordingly, NA and property No. 279 have been cancelled. It is further alleged that, Arun Rathod and Sapana Rathod filed an application to Tahsil Office, Kinwat for making investigation in respect of converting agricultural land into NA land. Accordingly, the informant lodged the FIR against unknown persons.

3. Heard learned advocate for applicant and learned APP for the State. Perused the papers of investigation.

4. Main accused Sharad Rathod, at whose instance record of Gram Panchayat is allegedly manipulated by present applicant, is granted anticipatory bail by the learned Additional Sessions Judge, Nanded in Miscellaneous Criminal Application No. 217 of 2023. While granting anticipatory bail to accused Sharad,

learned Sessions Judge has observed that two registers of Gram Panchayat Sakharni are seized, statements of witnesses are recorded and the investigation is almost complete. Civil Suit is pending between accused Sharad and his brother Arun.

5. Applicant is Gram Sevak, who was working at Gram Panchayat Sakharni at the relevant time, when the offence is allegedly committed. Presently applicant is serving at village Jarikot, Taluka – Dharmabad, District – Nanded. In respect of the allegations of fabrication and / or manipulation of Village Panchayat record, Tahsildar Kinwat has conducted an inquiry against the applicant, at the instance of informant. Tahsildar has concluded that it is not clear whether the register of Form No. 8 is fabricated or not or it was prepared and kept by applicant. Applicant has denied that his handwriting appears in Form No. 8 register.

6. On instructions, learned APP submits that applicant has given specimen handwriting and signature and the same is forwarded to handwriting expert and the report is awaited.

7. Admittedly, investigation pertains to documents, which are already seized by the investigating officer and the investigation appears to be almost complete. Applicant being a government

servant will be available for trial and he is not likely to abscond. His custodial detention is, therefore, not warranted in the facts of the present case. Application is, therefore, allowed by confirming interim protection granted to applicant. Till filing of the charge sheet, applicant shall attend the concerned police station as and when called by the investigating officer and shall co-operate in the investigation. Applicant shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE