



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 2050 OF 2023

Baburao S/o. Dipaji Pawar
Age: 69 yrs., Occu.: Retired,
R/o. Sarang Housing Society,
Plot no.25, Garkheda Road,
Aurangabad, Tal. And Dist.
Aurangabad – 431 009.

....Applicant

Versus

The State of Maharashtra
(Through Pundalik Nagar Police Station,
Aurangabad, Tal. Dist.Aurangabad)

.....Respondent

.....
Advocate for Applicant in ABA no.2050/2023 & for Respondent no.1
in Cri.Appln.no.268 of 2024 : Mr.Mahesh Ramnath Sonawane
APP for Respondent - State : Mr.S.M.Ganachari
Advocate for Applicant in Cri.Appln.no.268 of 2024 : Mr.P.D.Pawar

...
WITH

**CRIMINAL APPLICATION NO. 268 OF 2024
IN ABA/2050/2023**

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 18 MARCH, 2024

PRONOUNCED ON : 01 APRIL, 2024

ORDER :-

1. This is an Anticipatory Bail Application seeking protection from arrest by virtue of registration of crime bearing no.286 of 2023 registered at Pundliknagar Police Station, Aurangabad for

offence under Sections 420, 463, 464, 465, 468, 469, 470, 471, 474 of the Indian Penal Code (IPC).

2. In support of relief, learned Counsel for applicant pointed out that there is tussle between applicant and complainant on membership and presidentship of a Public Trust. There are cases and counter cases. There is record with Charity Commissioner Office as to who is member and who is not holding membership and who is holding which post. According to him, in such backdrop, there is false implication by one Janardhan Kisanrao Pawar alleging that present applicant had made application to the revenue authorities for getting documents like 7/12 extract. It is pointed out that it is mere application and no ownership is asserted. He pointed out that even his application has not been decided but still above complaint levelling false allegations has been registered alleging cheating and fabrication without any basis.

3. It is next submitted that infact applicant is a patron member of Trust. That several proceedings are pending in the

Office of Charity Commissioner on change reports. He further submitted that already all documents are with the Charity Commissioner Office as well as Trust Office. That nothing is to be recovered from applicant and therefore, his custody or interrogation is absolutely not necessary. That alleged application tendered is also with revenue authorities. Therefore, nothing new is to be recovered from him and therefore, his custodial interrogation is absolutely unnecessary. However, according to him, complainant is pressing Police authorities to act on his false complaint and is keen in seeing applicant's arrest and hence, he seeks protection.

4. Criminal Application no.268 of 2024 is filed for permission to assist to Public Prosecutor.

Criminal Application no.268 of 2024 is allowed and disposed of.

5. Learned APP as well as learned Counsel for complainant, who is assisting APP, strongly opposed anticipatory bail application pointing out that private complaint was lodged by

complainant invoking provisions under Section 156(3) of the Code of Criminal Procedure (Cr.P.C.). That learned Magistrate on due application of mind and on getting satisfied, has directed registration of FIR. That it is a judicial order only on finding substance and existence of material indicating commission of cognizable offence. That applicant is neither a member nor holding any post as he claimed in the application to the revenue authorities. Such application is filed with ulterior motive to usurp the property. Applicant has a bad track record and previously also action has been taken against him and said cases are pending. Therefore, for meaningful investigation, it is submitted that, his custody is required and for all above reasons, application is sought to be rejected.

6. In the light of above submissions, documents placed on record are put to scrutiny. On going through the FIR dated 01-08-23, it transpires that one Janardhan Kisanrao Pawar approached Court of learned JMFC, Aurangabad and filed private complaint under Section 156(3) of the Cr.P.C. and based on the orders thereupon, crime is said to be registered bearing

no.286 of 2023 for above offences. Sum and substance of complaint is that there is a registered Trust in the name Vasantao Naik Institute for Tribal Development, Aurangabad. *De facto* complainant claims that he himself is a founder member and is also elected and selected as Executive President. According to him, present applicant, who has no concern with the said Trust and who is not even a member or any official of the Trust, with intention to usurp property of Trust located at Satara, has taken steps of tendering application on 09-12-2020 with Additional Tahsildar posing himself to be Executive President thereby offence under Sections 420, 463, 464, 465, 468, 469, 470, 471, 474 is committed. It is further alleged that by such act, fraud is tried to be played on both Government as well as Trust.

7. It appears that now anticipatory bail is prayed for after rejection of anticipatory bail application by learned Additional Sessions Judge, Aurangabad.

8. Perused voluminous papers placed on record.

9. There seems to be a Trust by name Vasantrao Naik Institute for Tribal Development and said Trust is registered with the Office of Charity Commissioner, Aurangabad. The said Trust has some landed properties. According to complainant, present applicant has no concern with the Trust. That present applicant is involved in various crimes and was also therefore suspended from service.

10. Here learned APP has placed on record original papers after registration of crime. It seems that there is an application at the end of present applicant to the revenue authority (Tahsildar). Contents of the application *prima facie* show that it is put up that on account of death of one Motiraj Bhajanu Rathod, name of applicant is required to be incorporated on revenue record. Therefore, there is *prima facie* substance in the accusation about attempt to usurp the trust property.

11. It is pertinent to note that alongwith instant anticipatory bail application, applicant has not placed before this Court any documents to demonstrate that he is a patron member or a

president, which he claims to be. Controversy to that extent is *sub judice* before Charity Commissioner Office. Here apparently allegations are about manufacturing false and bogus documents. Needless to say that said documents would obviously be in the possession of applicant and unless investigating machinery lays its hands on it, there would not be meaningful investigation. Crime is already registered upon orders of learned JMFC who has invoked provisions under Section 156(3) of the Cr.PC. There seems to be allegation of commission of offence under Sections 474 of the IPC, which provides for punishment of imprisonment for life.

Resultantly, this Court does not find it a fit case to extent any protection as prayed for. Accordingly, I proceed to pass following order :

ORDER

Anticipatory Bail Application no.2050 of 2023 is rejected.

(ABHAY S. WAGHWASE)
JUDGE

12. On pronouncement of this order, learned Counsel for the applicant prays for continuing interim relief granted by this Court on 15-12-2023, for four weeks so as to enable him to approach the Hon'ble Apex Court.

13. Learned APP strongly opposes the same.

14. Considering the above request made by learned Counsel for the applicant, interim relief granted by this Court on 15-12-2023 is continued for four weeks from today.

(ABHAY S. WAGHWASE)
JUDGE