

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3206 OF 2024

Dadasaheb Gorakh Chavan	...	Applicant
Vs.		
State of Maharashtra	...	Respondent

Mr. Anand S. Patil for Applicant.

Ms. Megha S. Bajoria, APP for Respondent-State.

Mr. M. G. Pisal, PSI, Pandharpur City Police Station.

CORAM : MANISH PITALE, J.

DATE : DECEMBER 02, 2024

P.C. :

. Heard Mr. Patil, learned counsel for the applicant and Ms.Bajoria, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0619 of 2024 dated 05.10.2024 registered with Pandharpur City Police Station, District - Solapur Rural, for offences under Section 356 of the Bhartiya Nyaya Sanhita, 2023 (BNS), as also Section 92(a) of the Rights of Persons with Disabilities Act, 2016 (Disabilities Act).

3. The offence under Section 356 of the BNS is bailable, while the offence under Section 92(a) of the Disabilities Act provides for imprisonment ranging for the period from six months to five years with fine.

4. The statement of the informant leading to registration of the FIR shows that on 03.10.2024, while the applicant was on a hunger strike raising certain issues, he gave a statement in the presence of media that the informant, who is a Tahsildar, was having blood clots in his brain in respect of which, he has obtained a certificate and that the applicant

further stated that this was funny or ridiculous. According to the informant, this amounts to an atrocity on him as he is a person suffering from disabilities.

5. The learned counsel for the applicant refers to the documents filed with the application to indicate that the FIR can be said to be a counter-blast and an afterthought. It is submitted that the applicant has been specifically raising issues against officers like the informant herein, using bogus disability certificates to secure government employment. Reference is made to certain alleged acts of corruption and illegality committed by officers, including the informant herein in communications addressed by the applicant to various government authorities. It is submitted that since the applicant is a social worker and he has been agitating and raising various issues of public interest, false cases have been registered against him earlier also and this FIR is another example of the same. It is submitted that the applicant is ready to co-operate with the investigation and therefore, this Court may consider allowing the application.

6. On the other hand, the learned APP, at the outset, has pointed out the number of FIRs registered against the applicant. Reference is also made to the number of reports of non-cognizable offences registered against the applicant. It is submitted that a perusal of Section 92(a) of the Disabilities Act would show that the ingredients of the offence against the applicant are clearly made out and therefore, this Court may not show any indulgence.

7. Section 92 pertains to punishment for offences of atrocities and clause (a) thereof indicates that such an offence is committed when a person intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view. The punishment for the said offence provides for imprisonment ranging for the period

from six months to five years with fine.

8. The documents filed along with the application show that the applicant has specifically raised the issue of number of individuals securing government employment on the basis of bogus disability certificates. It is found that such representations have been made by the applicant on various dates to government authorities stating that total 359 such officers, including the informant herein, have indulged in the said activity of relying upon bogus disability certificates. By a communication dated 06.03.2024, the applicant raised the issue of corruption being indulged in by various officers, including the informant herein.

9. It is found that the applicant was on a hunger strike with respect to the very issue about bogus disability certificates being utilized allegedly by the informant and other persons to secure government employment. This does *prima facie* indicate rivalry between the applicant on the one hand and the informant on the other.

10. The said FIR is to be appreciated in the backdrop of such material. The statement of the informant, which led to registration of the FIR, shows that the incident allegedly occurred on 03.10.2024, while the FIR was caused to be registered on 05.10.2024. The supplementary statement indicates that according to the informant, the statement was made before media on 04.10.2024.

11. The contents of the statement of the informant show that, according to him, while undertaking the hunger strike, the applicant derisively referred to the disability certificate of the informant, which certifies that the informant has blood clots in his brain.

12. This Court is of the opinion that in the light of the issues

specifically being raised by the applicant with regard to the bogus disability certificates, in respect of which repeated communications were addressed to the government authorities and the hunger strike itself was undertaken on the said issue, the allegations levelled by the informant need to be appreciated in that backdrop. Upon doing so, this Court is of the opinion that *prima facie* the FIR can be said to be a counter-blast. The applicant is ready to co-operate with the investigation.

13. As regards criminal antecedents, some of the FIRs include offence under Section 353 of the Indian Penal Code, 1860 (IPC), as also offences under the provisions of the Environment Protection Act, 1986 and in such cases, various government officers are informants, making allegations against the applicant. This Court is of the opinion that considering the issues being pursued by the applicant in the aforementioned manner, merely because offences have been registered against him, some of which are at the behest of the government officers, it cannot be said that the relief can be denied merely on that ground to the applicant.

14. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0619 of 2024 dated 05.10.2024 registered with Pandharpur City Police Station, District - Solapur Rural, he shall be released on bail on furnishing PR Bond of Rs.25,000/- with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer on 04.12.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or

any person concerned with the case and he shall not tamper with the evidence.

15. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

16. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab