IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2256 OF 2024

Kamal Suresh Kengle ... Applicant
Versus
The State of Maharashtra ... Respondent

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Mr. Sujil Alhat for the Applicant.
Mr. Balraj B. Kulkarni, APP for Respondent-State.
Mr. R. K. Shinde, PSI, Junnar Police Station, Pune (Rural).

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CORAM: MANISH PITALE, J.
DATE : 30th AUGUST 2024

P.C. :

. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No. 0174 of 2024 dated 9th May 2024 registered at Junnar Police Station, Pune (Rural), for offences under Sections 323, 353, 387, 504 and 506 read with 34 of the Indian Penal Code, 1860 (IPC).

3. It is alleged that the applicant and co-accused person entered into the office of the informant, who is a headmaster in a Government school and acted in the manner, as it is described in the statement of the informant. The background of the incident is that the school building being dilapidated was to be demolished and in that context, bids were invited. Eventually, a particular

party was awarded the contract, but when the work was to start, due to an official decision, reference to which is made in the statement of the informant, the work was suspended.

4. It is alleged that the applicant having no concern with the said work, on the date and time of the incident entered into the office of the informant and on that basis, the FIR has been registered.

5. Offence under Sections 353 and 387 of the IPC, amongst others, are registered against the applicant.

6. The learned counsel for the applicant submits that the FIR is belated. It is further submitted that now the informant has conceded that he had caused the FIR to be registered due to misunderstanding. It is further submitted that ingredients of the offence under Section 353 of the IPC are not made out and that therefore, this Court may consider granting relief to the applicant.

7. The learned APP has opposed the present application, emphasizing upon the detailed description of the incident given in the statement of the informant, leading to registration of the FIR. It is submitted that the applicant has criminal antecedents. This is disputed by the learned counsel for the applicant, who submits that offence may have been registered after the subject FIR and therefore, it cannot be said to be a criminal antecedent. It is also alleged that other competing contractors, who were interested in

the contract, have caused such false allegations to be made against the accused persons, including the applicant.

8. This Court has perused the statement of the informant, leading to registration of the FIR. The informant is a headmaster of a Government school and hence, he is a public servant. The acts on his part of undertaking the process of inviting bids for the work of demolishing dilapidated structure of the school and thereupon, on the basis of an official decision, to suspend such work, are all acts undertaken by the informant during the course of his official duty.

9. The allegations in the statement regarding the applicant storming into the office of the informant i.e. the headmaster are clear. The manner in which the accused persons behaved with the informant and assaulted him is also very clear and it is specifically alleged by the informant that the accused persons have nothing to do with the aforesaid project of demolition of the school building.

10. Such acts of the accused persons, including the applicant, against the public servant, while performing his duty, *prima facie* make out the essential ingredients of the offence under Section 353 of the IPC. As regards Section 387 of the IPC, it would be a matter for further investigation and at this stage itself, it cannot be said that the applicant deserves to be granted relief, particularly when a *prima facie* case is made out against the applicant.

11. The subsequent alleged act of the informant stating that the FIR was registered due to misconception, cannot inure to the benefit of the accused persons because it can also be concluded that the informant is being influenced after registration of the FIR.

12. The investigation is on going and hence, no case is made out for granting anticipatory bail. The application is dismissed.

MANISH PITALE, J.

BIPIN DHARMENDER PRITHIANI
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