



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

CRIMINAL APPLICATION NO.4324 OF 2024

Gautam S/o Baluprasad Misar,
Age-54 years, Occu:Service,
R/o-Plot No.21, Vrindavan
Jagmohandas Nagar, Parola,
Tq-Parola, Dist-Jalgaon.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through Police Inspector,
Parola Police Station,
Tq-Parola, Dist-Jalgaon,
- 2) Avinash S/o Ramesh Patil,
Age-36 years, Occu:Service,
R/o-Nagari Education Society,
Girls High School, Parola,
Tq-Parola, Dist-Jalgaon.

...RESPONDENTS

...
Mr. B.R. Warma Advocate h/f. Mr. S.P. Tiwari Advocate for
Applicant.
Ms. P.R. Bharaswadkar, A.P.P. for Respondent No.1.
...

**CORAM: SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.**

DATE : 3rd JANUARY, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Application has been filed under Section 528 of the

Bharatiya Nagrik Suraksha Sanhita, 2023 for quashing the First Information Report (for short "the FIR") vide Crime No.297 of 2024 registered on 26th September 2024 with Parola Police Station, District-Jalgaon for the offence punishable under Section 7-A of the Prevention of Corruption Act, 1988.

2. Heard learned Advocate Mr. Warma holding for learned Advocate Mr. Tiwari for the applicant and learned APP for respondent No.1. There is no necessity to issue notice to respondent No.2 considering the grounds raised and submissions made.

3. Learned Advocate for the applicant has taken us through the FIR and also the documents which the applicant has produced in view of the order passed by this Court on 18th November 2024. It will not be out of place to mention here that on that day itself we were not convinced with the reasons as to why the documents were not produced earlier. However, as the affidavit along with the documents was ready, we permitted the applicant to produce the same. Applicant has produced those documents, which in fact he will have to prove at the time of trial. Those are private documents which cannot be considered when those are produced by an accused. Taking into

consideration the scope of this application under Section 528 of the Bharatiya Nagrik Suraksha Sanhita, we will have to consider the contents of the First Information Report on the face of it.

4. The learned Advocate for the applicant has submitted that the informant is a peon employed with the educational institution and brother of the present applicant is the chairman of the society which runs the said school. Further, the applicant is a teacher in the said school. It is alleged that the present applicant had called all the peons after a period of one month after the brother of the applicant was elected as chairman of the society, and said that if the peons want to get continued with their job, they should give an amount of Rs.10,000/- each. Threat was given that if that amount was not given then they would be in trouble. According to the learned Advocate for the applicant, it cannot be termed as bribe and applicant was not authorized to collect any amount. Though in the FIR it is stated that the alleged demand by the present applicant has been got confirmed in presence of Panch No.1, however, the trap failed in view of the fact that it is alleged that the applicant had asked the amount to be given to another teacher. The trap was arranged on 12th February 2024 which failed. But then the FIR has been lodged on

26th September 2024 i.e. after the delay of more than seven months. It appears that the police had stayed the entire proceedings but unnecessarily reopened the matter and this is nothing but malicious prosecution of the applicant. The applicant has been made as a scape goat to involve his brother, chairman and the other office bearers of the society by the opposite group.

5. At the outset, it is to be noted that apparent perusal of the FIR would show that the complaint was already filed when the fact was informed to the Deputy Superintendent of Police, Anti Corruption by the informant. Thereafter the demand was got verified and there is evidence to the effect of recording of the conversation between the informant and the applicant where Panch No.1 was also present. Every delay can be explained and that cannot be the sole ground for quashing the FIR.

6. As regards the alleged false implication is concerned, the documents will have to be proved by the applicant or the circumstances will have to be proved by the applicant. Further, when the investigation is not yet complete, it would be

premature to exercise the powers of this Court under Section 528 of the Bharatiya Nagrik Suraksha Sanhita, at this stage.

7. The Application, therefore, stands rejected at the threshold.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JAN25