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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1995 OF 2024

Dadasaheb Shankar Vairagar

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....

Mr. D. R. Kale, Advocate for the Petitioner

Mr. K. S. Patil, APP for Respondent - State

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[CORAM : NITIN B. SURYAWANSHI, &
VAISHALI PATIL-JADHAV, J. J.]

DATE : 8th OCTOBER, 2025

ORDER :

1. This Petition, filed under Article 226 of the Constitution of India, seeks withdrawal of criminal prosecution in Crime No. 250 of 2019, registered with Sonai Police Station and the proceedings of SCC No. 1147 of 2022, pending before the learned Judicial Magistrate, First Class, Newasa.

2. Undisputed facts, leading to this Petition, are that, the Petitioner was Sarpanch of village Sonai in the year 2019. As there was no supply of water in Sonai and 18 village around it and since the Maharashtra Jeevan Pradhikaran did not implement Water Supply Scheme, the Petitioner, along with villagers from the said village and some public representatives, staged a protest (Rasta Roko) on Ghodegaon - Rahuri road, on 13th July,

2019. Due to that, Crime No. 250 of 2019 was registered at Sonai Police Station for the offence punishable under sections 143, 149 and 341 of the Indian Penal Code and sections 37, (1) (3) and 135 of the Maharashtra Police Act against 7 accused persons, including the Petitioner. On completion of the investigation, charge sheet was filed and the matter is numbered as SCC No. 1147 of 2022 pending in the Court of learned Judicial Magistrate, First Class, Newasa.

3. State Government has issued resolution dated 20th September, 2022 for withdrawal of prosecution in the cases in which there is no loss of life and there is no damage to the public property of more than 5 lakh. By Government Resolution dated 12th February, 2024, Offences registered for staging protest on political and social issues, in which charge sheet is filed till 31st January, 2024, are permitted to be withdrawn in terms of Government Resolution dated 20th September, 2022. According to the Petitioner, his case is squarely covered by the said Government Resolutions.

4. In terms of the Government Resolutions, Petitioner's case was placed before the Competent Committee. The Committee opined that, though the Petitioner's case is covered by Government Resolution dated 20th September, 2022, as there is

no loss of life and there is no damage to the public property of more than 5 lakhs, but refused the permission to withdraw the prosecution against the Petitioner, on the ground that as per the directions of the Apex Court in the case of **“Ashwini Kumar Upadhyay V/s Union of India and Others” 2024 (1) SCC 185**, the cases in which former or present MPs and MLAs are made accused, those prosecutions cannot be withdrawn without prior permission of this Court. The Petitioner is aggrieved by this decision.

4. Heard learned Advocate for the Petitioner and learned APP for the State. Perused the documents on record and the decision in the case of **“Ashwini Kumar Upadhyay”** (*supra*).

5. Admittedly, Petitioner’s case is squarely covered by the Criteria laid down in Government Resolutions dated 20th September, 2022 and 12th February, 2024. However, since the former MLA, namely Shankarrao Yashwantrao Gadakh is arrayed as accused No.1 in the present charge sheet, the Committee has held that permission of this Court is necessary for withdrawal of the prosecution, in terms of the decision in **“Ashwini Kumar Upadhyay”** (*supra*).

6. In **“Ashwini Kumar Upadhyay”** (*supra*), the Apex Court has given directions to give priority to the criminal cases against

MPs and MLAs, which are punishable with death or life imprisonment and the cases punishable with imprisonment for 5 years or more. Indisputably, offence alleged against the Petitioner is punishable with maximum imprisonment of one year.

7. Since the Petitioner's case is squarely covered by the criteria laid down in the Government Resolution dated 20th September, 2022, prosecution against the Petitioner deserves to be withdrawn and the Petition deserves to be allowed. Hence, the following order:

ORDER

- A. Criminal Writ Petition is allowed.
- B. Permission is granted to withdraw the prosecution against the Petitioner in Crime No. 250 of 2019 registered with Sonai Police Station, Taluka - Newasa, District - Ahilyanagar, for the offence punishable under sections 143, 149 and 341 of the Indian Penal Code and under sections 37 (1) (3) and 135 of the Maharashtra Police Act.
- C. Consequently, SCC No. 1147 of 2022 pending on the file of learned Judicial Magistrate, First Class, Newasa, District - Ahilyanagar is quashed, to the extent of the Petitioner.

[VAISHALI PATIL-JADHAV]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE