

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
LD.VC. ANTICIPATORY BAIL APPLICATION NO.468 OF 2020

Farukh Sattar Dalvi .. Applicant
Vs.
State of Maharashtra .. Respondent

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Mr. Vijay S. Thakur i/b. Ajinkya Patil Thakur & Associates for
the Applicant.

Mrs. Rutuja Ambekar, A.P.P. for the State.

CORAM: SMT. BHARATI DANGRE, J.
DATED : 17th AUGUST, 2020.

P.C:-

1 The applicant is apprehending his arrest in connection with FIR bearing No. 0038/2020 registered on 5th April 2020 with Kasara Police Station, Thane on a complaint lodged by Tahsildar of Shahapur. The offence came to be registered under Section 353, 504, 506, 141, 143 and 148 of the IPC.

2 With the assistance of the learned counsel for the applicant and the learned APP, perused the complaint. The complaint is lodged in the backdrop of the pandemic Covid-19 when the Government machinery was grappling with an extreme situation when the lock-down was declared on 24th March 2020 and several workers/labourers who were engaged in various activities

in the city of Mumbai made an attempt to leave for their village. The Government was in the process of assisting the migrants and ensuring their safe passage to their respective place of abode at far away places. In this situation, on 29th March 2020, a batch of such migrants started from Vasai - Virar and were proceeding towards Shahapur. The complainant working as Tahsildar in Shahapur was instructed to arrange for their lodging and boarding and accordingly, a batch of around 80 such migrants were to be offered shelter in Ashram school, Shirur Village. At that point of time, the applicant accompanied with several persons seriously objected. The complainant was placed in a distress situation and she sought assistance of Shahapur Police Station by informing on telephone. The allegation of the complainant is the applicant verbally abused her and threatened her with dire consequences. The act of the applicant clearly amounts to interfere in the discharge of duty by a public servant and since the attempt was to abuse which, however, is akin to use of some force, but not strictly fall within the purview of use of criminal force. However, the attempt was with an object to deter the complainant from discharging the duties as public servant. The learned counsel for the applicant, however, defend his action by stating that he only stalled the habitation of the migrants in the school which was being done without following due process and according to him, whole village would have been put to a risk. In any contingency, since the complaint comes from public servant who was working on the post of

Tahsildar and this was with an intention to deter her from discharge of duties, the applicant may be tried for the said offence. However, taking the *prima facie* view of the matter, since the custodial interrogation of the applicant would serve no purpose, but subject to the stipulation that the applicant would co-operate in investigation by reporting to the Investigating Officer from 2nd September 2020 to 4th September 2020 between 10.00 am to 2.00 p.m.

3 It is no doubt true that the applicant has attempted to deter the complainant from discharge of her duties and particularly when he considers himself to be a social worker rather it was imperative on his part to assist the Government agency in securing shelter to the migrants. Instead, the version of the complainant is to the contrary. However, accepting the bonafides of the applicant that he was objecting to their refuge with a genuine concern of the villagers, I am ready to accept the same. However, as a responsible person and since he claim to be social worker, he must contribute an amount of Rs.50,000/- in the Chief Minister Welfare Fund for aiding the State Government which is grappling an unpredicted situation and coping with a grim and stressful scenario. This will be an addition condition of the applicant being released on bail in anticipation of his arrest for the offence under Section 353 of IPC. Hence, the following order :-

ORDER

MM Salgaonkar

- (a) In the event of his arrest, the Applicant - Farukh Dalvi shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (c) The Applicant shall make himself available as and when required by the Investigating Officer.
- (d) The Applicant shall deposit an amount of Rs.50,000/- in Chief Ministers Relief Fund and shall produce the receipt of such deposit to the Investigating Officer on the day when he reports on 2nd September 2020.

4. The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J.