

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE  
HON'BLE SHRI JUSTICE ANIL VERMA  
ON THE 25<sup>th</sup> OF JULY, 2024  
MISC. CRIMINAL CASE No. 28306 of 2024  
*SMT. PRABHUBAI*  
*Versus*  
*THE STATE OF MADHYA PRADESH***

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**Appearance:**

Ms. Anita Jain, learned counsel for the applicant.

Smt. Varsha Singh Thakur, learned G.A. for the respondent / State.

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**ORDER**

Both the parties heard.

**02.** This is the first application filed by the applicant under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred as “BNSS”) for grant of regular bail relating to Crime No.209/2022 registered at Police Station Namli, District Ratlam (M.P.) for the offence under Sections 420, 467, 468, 471, 34 of the Indian Penal Code, 1860. The applicant is in custody since 20.06.2024.

**03.** Brief facts of the case are that the applicant Prabhubai was posted as a Sarpanch at gram Palsoda District Ratlam. Chief Executive Officer, Janpad Panchayat, Ratlam lodged an FIR on 21.06.2022 at P.S. Namli by stating that the applicant hatched a criminal conspiracy with other co-accused persons and fraudulently by misusing his official capacity issued illegal lease deeds of Government land to ineligible persons. Accordingly, offence has been registered against the applicant.

**04.** Learned counsel for the applicant submits that the applicant is an innocent person and he has been falsely implicated in this offence. He is in custody since 20.06.2024. Applicant is a 76 years old lady and is suffering from various ailments, she remained Sarpanch of Gram Panchayat Palsoda for the period of 2010-2015, she performed her duty with the help of her son Mukesh, she does not know about the disputed lease deeds. Applicant is permanent resident of District Ratlam. Final conclusion of the trial is likely to take sufficient long time. Under the above circumstances, prayer for grant of bail may be considered on such terms and conditions, as this Court deems fit and proper.

**05.** Per contra, learned counsel for the respondent / State opposes the bail application and prays for its rejection by submitting that present applicant is main accused in the instant case, bail applications of all other co-accused persons have been rejected by this Court vide different orders, offence is serious in nature, therefore, she is not entitled for grant of bail.

**06.** Perused the impugned order of the trial Court as well as the case diary.

**07.** After considering all the facts and circumstances of the case, nature and gravity of offence, arguments advanced by the learned counsel for the applicant and also taking note of the fact that being a Sarpanch of Gram Panchayat, applicant is responsible for all the acts done by her, some of the alleged lease deed have been issued by the signature of the present applicant, therefore, it cannot be said that she is not aware with issuance of the aforesaid sale deeds. Being a Sarpanch, applicant had enjoyed all the powers and status of the Sarpanch,

therefore, illiteracy is not a ground by which she can escape from such criminal activities.

**08.** In view of the *prima facie* strong evidence regarding the aforesaid evidences available on record, this Court is not inclined to grant bail to the present applicant.

**09.** Matter pertains to the Panchayat Raj system in our State, which is the important local Government of the village. Therefore, this Court before pertaining the order, finds it necessary to make the following observations:

(i) It is ironic that in our country billions of people are roaming unemployed despite being educated, but for the Gram Panchayat, has no provision of any minimum educational qualification for the selection of Panch and Sarpanch and due to this reason, large number of illiterate Panchs and Sarpanchs are elected, who do not know even basic reading and writing and rules and laws. It is an important reason for continuous increment of the cases of violation of law and economic offences in the Gram Panchayats.

(ii) The notion of Gram Swaraj was envisioned by the Mahatma Gandhi is true spirit of the democracy. It is now instrumental in development and rural reconstruction. Being a local Government, Panchayat is a State subject and also part of the State list in the 7<sup>th</sup> Schedule of the Constitution of India. Mandate for setting up Panchayats is provided by Article 246 of the Constitution of India. Further Article 243(k)(4) provides that the Legislature of a State may, by law, make provision with respect to all subject relating to, or in connection with, election to the Panchayats. Therefore, the State Legislature through provisions in

their respective State Panchayat Raj may prescribe the minimum educational qualification for the selection of Panchayati Raj institutions. Although, the State of Rajasthan and Haryana has prescribed minimum educational qualification for the selections of Panchayati Raj Institution in the year 2015. However, the State of Rajasthan has repealed such provisions in the year 2019.

(iii) The Hon'ble Apex Court while discussing the educational qualification of Panch and Sarpanch in the case of *Rajbala and others V/s State of Haryana and others* reported in (2016) 2 SCC 486 in para 80 has held as under:

80. It is only education which gives a human being the power to discriminate between right and wrong, good and bad. Therefore, prescription of an educational qualification is not irrelevant for better administration of the panchayats. The classification in our view cannot be said to be either based on no intelligible differentia unreasonable or without a reasonable nexus with the object sought to be achieved.

(iv) Undoubtedly, in our State, Sarpanch and Panch are not legally required to be educated, but it is also true that an educated Sarpanch or Panch can better understand and navigate the Government policies, development schemes and administrative procedures. An educated Panch or Sarpanch may be better for fulfilling the needs of their village, manage village finances and implement development projects effectively. The poor educational background of the elected Panchayat functionaries is often mentioned as one of the main factors behind the poor functioning of the Gram Panchayats. This is exigent to ensure the successful realization of true Gram Panchayat Swaraj and the constitutional objects of the decentralized governance.

**10.** Accordingly, the first bail application filed by the applicant under Section 483 of BNSS is hereby **dismissed**.

**(ANIL VERMA)**  
**JUDGE**

Divyansh