

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

CRIMINAL APPLICATION NO. 2719 OF 2015

Tushar s/o Kashinathrao Dudhate **APPLICANTS**

V E R S U S

The State of Maharashtra & Ors. **RESPONDENTS**

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Mr. C.K.Shinde, Advocate for Applicants.

Mrs. S.G.Chincholkar, A.P.P. for R. No.1 - State.

Mr. A.A.Khande h/f Mr. M.P.Kale,

Advocate for first informant.

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CORAM : V.M.DESHPANDE, J.

DATE : 9th JUNE, 2015

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PER COURT :

1. This is an application for anticipatory bail, since the applicant is apprehending his arrest in connection with Crime No. 119/2015 registered with Police Station Gangakhed, Dist. Parbhani for the offences punishable u/s 326,341,427,504,506 read with 34 of the Indian Penal Code.

2. Heard Mr. C.K.Shinde, learned counsel for the

applicant, Mrs. S.G.Chincholkar, learned A.P.P. for Respondent – State and Mr. A.A.Khande holding for Mr. M.P.Kale, learned counsel for first informant in extenso.

3. F.I.R. is lodged on 03/05/2015 in respect of the incident that has occurred on 24/04/2015. Thus, there is delay in lodging F.I.R.

4. According to the F.I.R., when the first informant along with his companion Sk. Ibrahim Sk. Lalu and driver Rajabhau Baliram Shinde were proceeding towards Parbhani at Sayal, their motor vehicle was intercepted by two persons. In the F.I.R., specific allegation is made against the present applicant Tushar Dudhate. According to the F.I.R., Tushar Dudhate has asked as to how the first informant dare to file the nomination form against his grand-father in respect of the ensuing election of the District Central Co-operative Bank, Parbhani and then the present applicant has given knife blow on the left thigh and the right hand of the first informant. Though in the F.I.R., specific allegations are made against the present applicant, learned A.P.P. has fairly pointed out the supplementary statement of the first informant which was recorded on 03/05/2015. In the said statement, first informant has taken somersault and has not attributed the overt act of making knife blow by the present applicant. The supplementary statement shows that the entire allegations were made against Rohidas Satpute. Even the learned counsel for the first informant has stated that in his supplementary statement, he has absolved the present

applicant in so far as the assault by knife on the first informant is concerned. According to the learned counsel for the first informant, when Rohidas Satpute was making assault on the first informant, that time, Sk. Ibrahim tried to intercept and present applicant has made assault on Sk. Ibrahim. Statement of Sk. Ibrahim is available in the investigation papers. Curious enough, there is no injury certificate of Sk. Ibrahim on record. The Court can not oblivious of the fact that the dispute has arisen on account of election, therefore, false implication on the part of first informant and Sk. Ibrahim in respect of the applicant can not be ruled out, especially when the first informant himself has changed his version, what he has stated in the F.I.R. and in the supplementary statement. In that view of the matter, custodial presence of the present applicant is not at all required and the present Criminal Application has to be allowed. That leads me to pass the following order.

(i) Present Criminal Application is allowed.

(ii) Interim order dated 29/05/2015 is hereby confirmed.

[V.M.DESHPANDE, J.]