

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.421/2017

Raju @ Rajendra Madhusudan Lohiya

..Vs..

State of Maharashtra, through Police Station Officer, Police Station Achalpur,
Tq. Achalpur, Distt. Amravati

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.M. Patwardhan, Adv. for the applicant.
Shri M.J. Khan, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 21.6.2017.

Heard.

The applicant, who is elected Corporator of Nagar Parishad, seeks pre-arrest bail apprehending arrest in crime registered against him for the offence punishable under Sections 353, 323 of the Indian Penal Code and Sections 3(1)(x), 3(2)(va), 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The crime is registered on the complaint of Sau. Vimal Kailash Wankhade (wife of alleged victim) that the applicant has abused the victim and assaulted him shouting that the victim (Jamadar) was not working properly.

The application is opposed mainly on the ground that the prayer for pre-arrest bail cannot be

considered in view of bar created by Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The learned A.P.P. has further submitted that there is ample material on record to show involvement of the applicant in the crime.

After going through the F.I.R., I find that the ingredients necessary to constitute the offence punishable under Sections 3(1)(x), 3(2)(va), 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 prima facie are not made out and the prosecution will have to prove its case at the trial.

It is the case of the applicant that Kailash Wankhade (husband of the complainant) was under the influence of alcohol at the relevant time. The contention of the applicant assumes significance as there is no explanation why victim Kailash Wankhade has not lodged complaint and why his wife has lodged the complaint. The learned Advocate for the applicant has pointed out that incident, as per the allegations of the complainant, took place at 3 p.m., however, the complaint is lodged after 7 hours at about 10.30 p.m.

The applicant has stated that he is not involved in any other crime / offence. The non-applicant has not been able to show that the custody of the applicant is required for further investigation.

Considering the facts of the case, following order is passed:

In the event of arrest in Crime No.291/2016

registered by the non-applicant, applicant be released on bail on executing P.R. bond for Rs.25,000/- (Rs. Twenty Five Thousand).

The application is **allowed** accordingly.

JUDGE

Tambaskar.