

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.689 OF 2016

(Madhukar s/o Ranglalji Pawar ..vs.. State of Maharashtra, through PSO, PS Barshitakli, District
Akola)

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

Court's or Judge's orders

Shri V.N. Morande, Advocate with Shri Ram Karode, Advocate for the
applicant,
Shri J.Y. Ghurde, Addl.P.P. for the non-applicant.

CORAM : S.B. SHUKRE, J.

DATED : 12-04-2017

Heard learned Counsel for the applicant and
learned Additional Public Prosecutor for the non-
applicant.

It is seen that investigation was made following
the directions issued by the learned Magistrate on
15-03-2016 under Section 156(3) of the Criminal
Procedure Code in Misc. Criminal Application
No.25/2016 and this investigation reveals that the
allegations made against this applicant by the
complainant relate to hurling of abuses on caste line,
outraging of modesty, cheating and forgery were without
any substance. Report was accordingly submitted to the
Court of Judicial Magistrate but it was not accepted by
the learned Magistrate. The reason was that the report
was submitted without registration of offences against
this applicant, which is a requirement of making an
investigation in pursuance of an order passed under

Section 156(3) of the Criminal Procedure Code. Therefore, the matter was remanded back to the Investigating Officer for fresh investigation. After such remand, the Investigating Officer registered offences punishable under Sections 420, 409, 468, 471 of the Indian Penal Code and Sections 3(1)(x)(xii) and 3(2)(v) (vi) of the Scheduled Castes and Scheduled Tribes (Preventions of Atrocities) Act, 1989. Now the investigation is going on.

Upon perusal of the complaint, which gives an idea about the nature of allegations and what is going on between this applicant and the complainant, I find that these allegations at this stage would have to be considered in the background of the antiquity of the incident as well as filing of previous complaints by the complainant in the present crime, on 08-09-2015 and 30-10-2015. Taking into consideration the background and the date of alleged offences, I find that at this stage, prima facie, it would be doubtful if the offences would fall within the scope of the Scheduled Castes and Scheduled Tribes (Preventions of Atrocities) Act, 1989. As regards the other offence alleged against this applicant, at this stage, applicant's custodial interrogation does not appear to be necessary.

Shri R.R. Vyas, learned Counsel for the intervenor/complainant, at this stage, invites my attention to the written submissions filed in order to support his contention that the conduct of this applicant disentitles him from seeking the relief of anticipatory bail. I have gone through the written submissions and it does appear, at this stage, that there may be *prima facie* substance in the allegations pertaining to molestation made against this applicant. But, it is significant to note that in respect of these allegations, a separate offence, an offence punishable under Section 354 of the Indian Penal Code vide Crime No.122/2015, Police Station Barshitakli, District Akola, has been registered and in this crime, this applicant has been granted anticipatory bail. The allegations relating to commission of various crimes in the present crime relate to period which is several months prior to filing of the complaint by the complainant. The Investigating Officer, during earlier course of investigation, has given a negative report. Therefore, it is difficult, at this stage, to form any *prima facie* view about the conduct of this applicant. In the circumstances, I find that at this stage, this application deserves to be allowed.

The application is allowed. The interim bail granted to the applicant by this Court on 20-10-2016 is hereby confirmed on same conditions with addition of the conditions that the applicant shall attend the police

station once in every week i.e. on every Sunday between 10-00 a.m. and 12-00 p.m. till the report in terms of order passed under Section 156(3) of the Criminal Procedure Code is submitted to the Court of Judicial Magistrate First Class and the applicant shall co-operate with the Investigating Officer in the matter of investigation.

JUDGE

adgokar