

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

CRIMINAL APPLICATION (ABA) NO.265 OF 2019

(Azahar Ahmad @ Pappi s/o Maksood Ahmed .vs.. The State of Maharashtra, through PSO, Washim City)

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. Mardikar, Counsel for the applicant,
Shri Amit Chutake, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 19-06-2019

The applicant, who is arraigned as an accused in Crime 146/2019 registered at Washim Police Station for offence punishable under Sections 307, 353, 332, 153 and 309 of the Indian Penal Code, Section 25 read with Section 4 of the Arms Act and Section 135 of the Maharashtra Police Act is seeking anticipatory bail.

2. Shri R.M. Mardikar, learned Counsel submits that the co-accused, against whom the major role is attributed, is released on regular bail. The next submission is that perusal of the first information report would show that the role attributed to the applicant is extremely limited and would, at the most, make out an offence punishable under Section 153 of the Indian Penal Code which is bailable. Shri R.M. Mardikar then states that the applicant is acquitted in Regular Criminal Case 1908/2001 and he has, therefore, no criminal antecedent of which note can be taken while considering the

application for bail.

3. In the incident which took place on 15-3-2019 at least one policeman suffered injuries. The assault on the policeman is attributed to the co-accused. However, even if the role attributed to the applicant is seen, it is difficult to appreciate the submission that the offence will be under Section 153 of the Indian Penal Code.

4. The witnesses whose statements are recorded during the course of the investigation are consistent in stating that the applicant not only instigated the residents in the locality to confront the police staff, the applicant also engaged in physical assault on Police Constable Ganesh and attempted to deter the police staff from discharging their duty.

5. It is not even argued that the incident did not happen nor is it the case of the applicant that there is any reason or motive for the police to falsely implicate him.

6. In this view of the matter, I am not inclined to exercise discretion in favour of the applicant.

7. The application is dismissed.

JUDGE