

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

**CRIMINAL APPLICATION (ABA) NO.784 OF 2019**

Jay Ramswarup Bangad .Vs. State of Maharashtra,through P.S.O, P.S. Civil  
Lines, Dist. Akola.

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

Court's or Judge's orders.

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Mr. Anil Mardikar, Senior Advocate assisted by Mr. N.R.  
Tekade, Advocate for applicant.  
Mr. J.Y. Ghurde, A.P.P. for non applicant- State.  
Mr. P.A. Nemade, Advocate assisting the prosecution.

**CORAM : V. M. DESHPANDE, J.**  
**DATED : DECEMBER 17, 2019**

**CRIMINAL APPLICATION (APPP) NO.1977 OF 2019**

This is an application filed by first informant to  
assist the learned Additional Public Prosecutor through his  
counsel.

Application is allowed Mr. P.A. Nemade, learned  
counsel is permitted to assist the learned Additional Public  
Prosecutor.

The application is disposed of.

**CRIMINAL APPLICATION (ABA) NO.784 OF 2019**

Heard Mr. Mardikar, learned Senior Counsel for  
applicant, Mr. Ghurde, learned Additional Public Prosecutor  
for non applicant-State and Mr. Nemade, learned counsel  
assisting the prosecution in extenso.

2. The applicant is apprehending his arrest in connection with Crime No.427/2019 registered with Police Station, Civil Lines, Akola for an offence punishable under Section 354 of the Indian Penal Code.

3. After hearing the respective counsel, following undisputed facts emerge on record:

(i) The applicant resides at his house no.13, situated at Toshniwal Layout, Akola. In front of his house, Mr.Anshul Jain resides. Victim is wife of Anshul Jain.

(ii) Between the houses of the applicant and Anshul Jain there exists a 9 meter Government road.

(iii) One Ashok Bhavarlal Jain also resides in house constructed on plot no.13 of Toshniwal Layout.

(iv) The applicant has given a letter to Municipal Commissioner, Akola on 17.04.2018 wherein the applicant pointed to the Municipal Commissioner that Mr.Anshul Jain, without obtaining any permission from the competent authority, has started construction of compound wall resultantly there is an obstruction to the ingress and egress on the road situated in between the two houses.

(v) The applicant has also lodged his complaint about illegal construction of Ashok Jain on Government portal and upon that the Zonal Officer of Akola Municipal Corporation informed the applicant vide letter dated 04.01.2019 that said Ashok Jain is directed to produce the documents before it.

(vi) An incident has occurred on 18.10.2018. For that, the victim approached to police on the very same day and an NC no.859/2018 was registered for an offence punishable under section 506 of the Indian Penal Code (IPC) against applicant.

(vii) On 18.10.2018, the mother of the applicant Smt. Rajkiran lodged a report against the victim and her husband stating therein that victim and her husband used abusive language and also broke the rear window of her four-wheeler car because of complaint lodged by her son i.e. the present applicant with the police. On the basis of the report lodged by Smt. Rajkiran, Police Officer, Civil Lines, Akola registered Crime No.465/2018 of the offence punishable under Sections 294, 426, 506 of the IPC.

(viii) In the aforesaid crime, victim and her husband were released on bail. The investigating officer after completing investigation has filed final report vide final report no.458/2018 and the case is pending.

4. On 25.10.2019, the victim lodged a report in which the applicant is claiming anticipatory bail. As per the allegations in the report, on 25.10.2019 at about 08:45 in the night, applicant came near gate of her house in his four-wheeler car and started staring at her. It is alleged that to give mental harassment, the applicant made objectionable gestures.

5. During the course of hearing learned counsel for the victim submitted that the victim is having video clips with her showing gestures of the applicant.

6. When the victim is having the video clips, she can always produce it during trial as an evidence and it will be for the learned Judge, who will be ultimately conducting the trial, to appreciate the said evidence and if it is found that the applicant was making objectionable gestures he will be convicted. Presently, the question is of custodial presence of the applicant. It is not the prosecution case that applicant has taken any photographs in his cell phone. The learned Additional Public Prosecutor though states that there is a statement of witness Advocate Ashok Gupta. However, the learned Senior Counsel for applicant submits that the said advocate has also made construction of a compound wall unauthorisedly.

7. This Court on 19.11.2019 protected the applicant on a condition that applicant shall attend police station from 21.11.2019 to 29.11.2019 and shall be with the investigating officer from 11:00 a.m. to 05:00 p.m. The learned Additional Public Prosecutor has stated in reply that accordingly the applicant has already jointed the investigation by attending all the dates.

8. In view of the aforesaid, I am of the view that custodial presence of the applicant is not at all warranted. Consequently, I pass the following order:

**ORDER**

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.427/2019 registered with Police Station, Civil Lines, Akola for an offence punishable under Section 354 of the Indian Penal Code, applicant- Jay s/o Ramswarup Bangad be released on bail on he executing P.R. Bond in the sum of Rs.15,000/- with one solvent surety in the like amount.
- (iii) The applicant is directed to attend Police Station, Civil Lines, Akola as and when called by the investigating officer. However, for that the investigating officer shall give a clear cut two days prior written communication to the applicant.

The application is disposed of.

**JUDGE**