

Mahesh @ Mari Suresh Walhekar Age 21 years, Occu: Labourer R/o Gajranagar, Ahmednagar	...	Applicant
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The State of Maharashtra, ... Respondent
Through the Police Inspector,
Tofkhana Police Station, Ahmednagar

CORAM : V. G. BISHT, J.
DATE : 24th August, 2021.

1. This is an application under section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No. 109/2021 registered with Topkhana Police Station, District Dhule for the offences punishable under Sections 435, 436, 323, 504, 506 of the Indian Penal Code, 1860.

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The informant was accordingly informed by his mother. The informant, suspecting that it was the applicant behind the incident, lodged the report against him.

3. Mrs. S. M. Zaware, learned counsel for the applicant, submitted that the first information report came to be filed on the ground of suspicion. There is nothing on record to prima facie establish the complicity of the applicant in the alleged incident and in such circumstance, the present application deserve to be allowed.

4. Mrs. V. S. Chaudhari, learned A.P.P., on the other hand, submitted that there are eye witnesses to the incident who saw the applicant running away from the place of incident. In such circumstance and in view of the fact that investigation is in progress, the application deserves to be rejected.

5. Admittedly, the first information report against the present applicant is lodged on the basis of suspicion as earlier an incident had taken place near the petrol pump. As far as the submission of learned A.P.P. that there are eye witnesses to the incident that is to say witnesses had seen running away the applicant from the spot is concerned, in my considered opinion, that itself will not be sufficient unless prima facie it is shown that there is direct evidence involving the present applicant in the alleged offence.

6. Having regard to the facts and circumstance of the case, I am of the considered opinion that the applicant has made out a prima facie case to allow the present application.

7. Hence following order.

O R D E R

- i. The application is allowed.
- ii. Interim relief granted by this Court on 08.04.2021 is confirmed and is made absolute.

(V. G. BISHT, J.)

JPC