

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

25 ANTICIPATORY BAIL APPLICATION NO.1283 OF 2021

SHARAD SHIVRAM PAWAR
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. R.R. Karpe, Advocate for the applicant.
Mr. S.B. Narwade, A.P.P. for respondent - State.

...

CORAM : **PRAKASH D. NAIK, J.**

DATE : 29-11-2021

ORDER :

1. The First Information Report (for short "F.I.R.") has been registered with Jamkhed Police Station vide F.I.R. No. 283/2021 on 23rd June 2021 for the offences punishable under Sections 353, 332, 341, 504 and 506 of the Indian Penal Code.

2. The complainant is a Junior Engineer. He is working under the scheme of Prime Minister Rural Road Scheme since last 8 years. The area of his operation is Jamkhed Taluka. The work of construction of road from Shivoor to Basarwadi was completed in 2020 under his supervision. The contract was given to Mark Infa Company. Prior to that the contract for constructing the road of about 2 kms was given to the applicant. On 23rd June 2021, the complainant was conducting inspection of the road completed under his supervision. The applicant had intercepted his vehicle and pulled the complainant out of the vehicle. The applicant demanded amount towards the work performed by him. The applicant also slapped

him. It is alleged that the complainant was obstructed from discharging his duty.

3. Learned Counsel for the applicant submitted that undisputedly the applicant was involved in construction of road. His dues were pending. Assuming the allegations stipulated in the F.I.R. as true, it cannot be said that there is obstruction to the complainant while performing his duty. The incident can be related to the demand of dues of the applicant. Custodial interrogation of the applicant is not necessary.

4. Learned A.P.P. submitted that the applicant is involved in abusing and assaulting the complainant. The complainant is a public servant. The applicant has no right to assault him. While the complainant was proceeding to his vehicle for inspection of the road, he was assaulted. Therefore, Section 353 of the I.P.C. is attracted. The complainant has sustained injuries in the nature of contusion and abrasion. There are eye witnesses to the incident. Hence, the applicant is not entitled for the relief under Section 438 of the Code of Criminal Procedure.

5. I have perused the F.I.R. and investigation papers. From the tenor of the F.I.R., it appears that the applicant had indeed performed the work relating to the road as a Contractor. The applicant had allegedly intercepted vehicle of the complainant and demanded his dues and at that time allegedly the complainant was abused and slapped. Complainant was allegedly proceeding to his vehicle and he was intercepted. It is debatable whether there was

any obstruction in discharge of duty at the instance of the applicant. The applicability of Section 353 of I.P.C. is doubtful. In view of the factual aspect of the matter, the applicant need not be subjected to custodial interrogation. He can be directed to appear before the Investigating Officer and cooperate with the investigation. Hence, I pass the following order.

ORDER

- (i) ABA No. 1283 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in connection with Crime No.293 of 2021 registered with Jamkhed Police Station, Taluka Jamkhed, District Ahmednagar, the applicant be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall appear before the Investigating Officer on 07.12.2021, 08.12.2021 and 09.12.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of the charge-sheet.

6. The application stands disposed of.

(PRAKASH D. NAIK, J.)