

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 1966 OF 2019**

Suresh Ramrao Nikam

.....Applicant

Vs.

The State Of Maharashtra,

At the instance of Chavani

Police Station, Malegaon

.....Respondent

WITH**INTERIM APPLICATION NO.901 OF 2020****IN****ANTICIPATORY BAIL APPLICATION NO. 1966 OF 2019**

Ravindra Bhagwan Nikam

.....Applicant/
Intervenor**IN THE MATTER BETWEEN-**

Suresh Ramrao Nikam

.....Applicant

Vs.

The State Of Maharashtra,

At the instance of Chavani

Police Station, Malegaon

.....Respondent

Smt. Vrishali Raje for the Applicant.

Mr. Y.M. Nakhwa APP for the Respondent-State.

Mr. Chetan Damre for the Intervenor.

Mr. S.S. Ahire, PSI, Chavani Police Station, Malegaon, Nashik.

CORAM : A. S. GADKARI, J.**DATE : 9th DECEMBER, 2021.****P.C.:-**

Heard Smt. Raje, learned Advocate for the Applicant, Mr.

Damre, learned Advocate for the first informant-Intervenor and Mr. Nakhwa

learned APP for the Respondent-State. Perused record of investigation.

2 By a reasoned Order dated 9th September, 2019, the Applicant was granted interim relief.

3 Perusal of record indicates that, on the basis of a private complaint, the learned Judicial Magistrate, First Class, Malegaon passed an Order dated 26th July, 2019 under Section 156(3) of Cr.P.C. and in furtherance thereof, present crime is registered.

Prosecution case in nutshell is that, on 18th February, 2019, when the informant was doing his work in the school, the Applicant came there, abused and man-handled him. The Applicant pushed the informant from the chair and therefore the informant fell down. It is also alleged that, the Applicant broke glass, which was on the table and abused the informant.

4 Admittedly, the informant is not a public servant to attract Section 353 of the Indian Penal Code to the present crime. According to this Court, application of Section 353 of the Indian Penal Code to the present crime is misplaced.

The Applicant was a Chairman of the Girna Education Society, where the informant was working. In his capacity as a Chairman of the said Society, he entered into the precincts of the said school and therefore there is no question of applying Section 452 of the Indian Penal Code to the present crime.

Record of investigation reveals that, the informant did not receive any injury in the said alleged assault. As noted earlier, the informant is not a public servant and therefore, the application of Section 353 of the Indian Penal Code of the present crime is misplaced. Rest of the offences alleged against the Applicant are bailable offences.

5 There is another facet to the present crime. Record indicates that, an Order of suspension dated 15th February, 2019 was issued by the Applicant against the informant. It may be the reason that, the present crime has been lodged belatedly on 7th August, 2019 for an alleged offence of 18th February, 2019. Thus, it clearly appears that, the lodgment of the present crime is a counter-blast to the suspension Order dated 15th February, 2019 issued by the Applicant against the Informant.

6 In view of the above, Applicant deserves to be protected by pre-arrest bail. Interim Order dated 9th September, 2019 is hereby confirmed.

Application is accordingly allowed.

7 In view of disposal of the ABA No.1966 of 2019 itself, Interim Application No.901 of 2020 does not survive and is also disposed off.

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

Digitally signed by
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