

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

19 CRIMINAL APPLICATION NO.1670 OF 2022

**NAGORAO ISNAJI KALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Advocate for Applicant : Mr. Nandkumar Y. Kingaonkar
APP for respondent/State : Mr. S. J. Salgare
...

**CORAM : SMT. VIBHA KANKANWADI
AND
RAJESH S. PATIL, JJ.**

DATE : AUGUST 17, 2022

PER COURT : -

1. Present application has been filed invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashment of the FIR vide C.R. No. 76/2022 registered with Kranti Chowk Police Station, Aurangabad, dated 28.03.2022 for the offence punishable under Sections 143, 147, 149, 341, 427, 323, 504, 506 r/w 34 of the Indian Penal Code.

2. Heard learned advocate for the applicant as well as learned APP for respondent/State.

3. Case is not made out for issuing notice to respondent no. 2.

4. At the outset, it is noted from the contents of the application as well as the annexures that the applicant intends to raise plea of *alibi* for getting the FIR quashed against him. According to him, an official meeting was scheduled on 28.03.2022 at Mumbai and, therefore, the applicant had travelled to Mumbai by Railway. In the intervening night of 27.03.2022 to 28.03.2022, he has also produced the photo copy of railway ticket.

5. As regards the plea of *alibi* is concerned, the burden is on the applicant and he will have to prove it by adducing cogent evidence. The investigation is still pending and the applicant says that he has made a detailed representation dated 04.04.2022 to Commissioner of Police, Aurangabad. Even at this stage, we can observe that the Investigating Officer may consider the investigation from the angle of the contents of the representation and in that case the Investigating Officer would be armed with Section 169 of the Code of Criminal Procedure. However, when a fact is required to be proved by cogent evidence in the form of plea of *alibi*, it cannot be considered for quashment of FIR at this stage when the investigation is going on.

6. Application stands rejected.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE