

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO 142/2022

Sau. Jyoti w/o Bharat More Vs State of Maha., thr.P.S.O., PS Khamgaon City.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Mahesh Rai, counsel for the Applicant.

Shri V.A.Thakare, APP for the Respondent /State.

CORAM : ANIL S. KILOR, J.

DATED : 11/04/2022.

1. The applicant is seeking pre-arrest bail in Crime No. 983/2021, dated 30/12/2021, registered with Police Station Khamgaon City, District Buldhana, for the offences punishable under Sections 294, 336, 353, 504, 506 of the Indian Penal Code, 1860.

2. The allegations in the FIR are that the applicant abused the Police Staff in the Police Station and threatened the complainant, who is a Police Constable.

3. Learned counsel for the applicant submits that the applicant is a lady and the allegations made in the FIR even if on its face value, are improbable, in view of the fact that, in the Police Station, the applicant abused not only to the complainant but other staff members of Police as well. He,

therefore, submits that, she has unnecessarily been falsely implicated in the alleged offence.

4. Today, Shri Rai learned counsel for the applicant has filed an affidavit submitted that after ad-interim anticipatory bail was granted, the applicant has attended the Police Station and she was abused and threatened by the Police. It is submitted that on the contrary, the report has been submitted to the office of Public Prosecutor that the applicant is not co-operating with the prosecution and she repeatedly abused the Police.

5. He further submits that, the applicant is repeatedly asking for CCTV footage, which the Police are avoiding to give on the ground that it is not covered by CCTV camera. He lastly submits that all the offences except Section 353 are bailable, and as far as Section 353 of the Indian Penal Code is concerned, it does not attract even if the FIR is taken on its face value.

6. On the other hand, learned APP strongly opposes the application and submits that her custody is necessary for the alleged offence. He submits that there are reports that the applicant is repeating the offence whenever she attends the Police Station.

7. I have perused the case diary and also the contents of the FIR.

8. *Prima-facie*, there is no incriminating material available to attract Section 353 of the Indian Penal Code. Moreover, looking to the allegations made in the FIR, nothing is pointed out, why the custody of the applicant is necessary in the alleged offence. In that view of the matter, I am of the opinion that the applicant is entitled for grant of pre-arrest bail. Hence, I pass the following order:

i] The Criminal application is **allowed**.

ii] The order granting *ad interim* protection dated 08/03/2022, to the applicant is confirmed with the modification that as the period of more than three months is over after filing of the FIR, and as the applicant has attended the concerned Police Station on many occasions, the condition of attending the Police Station as and when her presence is required, is hereby recalled.

[JUDGE]

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Signed By: RAJESH K
NANDURKAR

Signing Date: 13.04.2022 16:55