

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

CRIMINAL APPLICATION (ABA) NO. 806 OF 2021

Shivaji S/o Bhaskar Ghuge

Versus

State of Maharashtra, through P.S.O., P.S. Malegaon, Tq. Malegaon, Dist. Washim

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

Court's or Judge's Order

Shri Anil Mardikar, Senior Advocate a/b Shri S.D. Chande,
Advocate for the applicant.

Ms. T.H. Udeshi, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 25/02/ 2022

1. The applicant is seeking pre-arrest bail in connection with Crime No.454 of 2021, dated 30.10.2021, registered with Police Station Malegaon, District :Washim for the offences 353, 332, 354, 504 and 506 of the Indian Penal Code.

2. The complainant-Kusumbai Ramrao Bhendekar has lodged a complaint against the applicant and seven other accused persons alleging that the applicant along with other accused persons assaulted Angad. It is further alleged that the applicant had given blow, from backside of Axe, on the head of Angad, due to which, Angad fell down and thereon accused persons started assaulting

him. Thereafter, the injured was taken to Rawankar Hospital, Akola for treatment.

3. Shri Anil Mardikar, learned Senior Advocate submits that the First Information Report in question is a counterblast as the wife of the applicant Mala Arunrao Ghuge lodged a report against the injured Angad on 23.10.2021 which was registered as Crime No.446 of 2021 for the offences punishable under Sections 353, 332, 354, 504 and 506 alleging that Angad has outraged her modesty.

4. It is submitted that the alleged incident is dated 23.10.2021, whereas, the FIR was lodged on 30.10.2021 and it was not lodged by the injured, but it was lodged by an eye witness. It is therefore, submitted that the applicant is falsely implicated in the alleged offences.

5. The learned counsel for the applicant claiming *alibi* and thereby submits that on the date and time of the incident the applicant was on his duty as a Constable attached to Washim Police Station.

6. On the other hand, Ms. Udeshi, learned A.P.P. strongly opposed the application. From the case diary, she has pointed out the statement of the witnesses and the Injury Certificate.

7. After perusal of the case diary and Injury Certificate, *prima facie*, I am of the opinion that the Injury Certificate does not support the case of the prosecution.

8. In that view of the matter, I am inclined to confirm the *ad-interim* anticipatory bail granted by this Court vide order dated 29.11.2021.

- a) The application is **allowed**.
- b) The order dated 29.11.2021, is confirmed.
- c) The applicant shall attend the concern Police Station as and when his presence is required.

The criminal application is **disposed of**, accordingly.

[ANIL S. KILOR, J.]

CHETAN
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DHAKATE

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