

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.716 OF 2022

Sagar Shamrao Hiwrale

Vs.

State of Maharashtra, through its Police Station Officer, Police Station Khamgaon
Rural, Tq. Khamgaon, Dist. Buldhana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri S.D. Chande, Advocate for applicant.
Shri S.D. Sirpurkar, APP for non-applicant.

CORAM : G.A. SANAP, J.

DATE : NOVEMBER 15, 2022.

The applicant apprehends his arrest in Crime No.234/2021 registered at Police Station, Khamgaon Rural, Tq. Khamgaon, District Buldhana for the offences punishable under Sections 143, 144, 147, 148, 149, 395, 379, 294, 452, 435, 354, 354A, 386, 504, 506 and 427 of the Indian Penal Code and therefore he has prayed for anticipatory bail.

2. It is stated that the applicant has not committed any offence. His name has not been mentioned in the FIR. No specific role has been attributed to him. He was not present at the time of the incident. He is ready to cooperate with the Police in the investigation of the crime in all respect. He is ready to abide by the conditions that may be imposed by the Court.

3. The State through Investigating Officer has filed reply and

opposed the application. It is contended that the crime is serious. The investigation is at preliminary stage. The informant and her family members were mercilessly beaten. The prime accused Ramesh Hiwrale outraged the modesty of the informant. They have extended threats to kill the informant and her family members. Learned APP submitted that if the applicant is enlarged on bail, possibility of tampering with the prosecution evidence cannot be ruled out. According to prosecution, no case has been made out for grant of anticipatory bail.

4. I have heard learned advocate for the applicant and learned APP for the State. Perused the record and proceedings.

5. Perusal of the FIR would show that 17 persons have been named in the FIR. It is stated in the FIR that 15 to 20 other accused persons were present on the spot. I have perused the case diary and the statements of some of the important witnesses. The name of the applicant has not been stated by those witnesses. It seen on perusal of the FIR that apart from 17 main accused similar allegations have made against 15 to 20 unknown persons. It is the case of the applicant that in view of this statement made in the FIR the Police are visiting his house and threatening to arrest him.

6. It is seen on perusal of the record that crime committed is serious however the question is whether material from the case diary is sufficient to *prima facie* implicate the applicant in the said serious crime. At this stage, it is seen that no specific role by name has been attributed to the applicant. The applicant has stated the he is ready to abide by the conditions that may be imposed by the Court. The apprehension placed on record by the learned APP that the possibility of tampering with the prosecution evidence cannot be ruled out, can be taken care of by imposing appropriate conditions.

7. In view of above, I am of the opinion that this application deserves to be allowed. Hence, I pass the following order:

ORDER

- i. The Criminal Application is allowed.
- ii. In the event of arrest of applicant- Sagar Shamrao Hiwrale, in connection with Crime No.234/2021 registered at Police Station, Khamgaon Rural, Tq. Khamgaon, District Buldhana for the offences punishable under Sections 143, 144, 147, 148, 149, 395, 379, 294, 452, 435, 354, 354A, 386, 504, 506 and 427 of the Indian Penal Code, he be released on bail on furnishing P.R. Bond in the sum of ₹25,000/- with one surety in the like amount.
- iii. The applicant shall not, in any way, tamper with the prosecution evidence.

- iv. The applicant shall not pressurize or threaten the prosecution witnesses.
- v. The applicant shall attend the concerned Police Station on every Monday and Saturday between 7:00 p.m. and 9:00 p.m, till filing of the charge-sheet.
- vi. The applicant shall co-operate the investigation officer.

JUDGE

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