

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

ANTICIPATORY BAIL APPLICATION NO.485 OF 2023

IRSHAD ISMAIL SAYAD

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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**Advocate for Applicant : Mr. A. R. Syed
APP for Respondents: Mr. S. N. Morampalle**

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CORAM : R.M. JOSHI, J

DATE : JULY 06, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 94 of 2023 registered with Nanalpeth Police Station, Dist. Parbhani for the offences punishable under Sections 353, 332, 336, 294, 504 read with Section 34 of the Indian Penal Code.

2. Informant is the police constable deputed at Special branch, Parbhani. It is alleged by informant that on 11.03.2023 he was doing patrolling duty in civil dress. It is stated that at Phule Complex one motorcycle came and that he was on the wrong side of the road and without showing indicator had driven the said vehicle. When he told them about it, the persons on the motorcycle came to him and at that time, pillion

rider assaulted informant with fighter at his face. On the basis of these allegations, Applicant apprehends arrest.

3. At the outset, learned Counsel for the Applicant states that Section 353 IPC has no application to the present case as the Applicant herein has not obstructed or deterred the informant from discharging his official duty. As regard the incident of assault, it is contended that the co-accused, who was pillion rider, assaulted informant. Thus, according to him, there is nothing on record to indicate the involvement of the Applicant in the crime.

4. Learned APP opposed the application by relying on the statement of witnesses and panchmana of transcript of CCTV footage.

5. Perusal of the FIR itself shows that the present Applicant did not cause any assault on the informant. Even the transcript of the CCTV footage clearly indicates that no overt-act is done by the Applicant herein. In absence of any overt-act it cannot be presumed that he was sharing common intention with

the co-accused. Nothing is to be recovered at his instance. Applicant has no criminal antecedents. Hence, application is allowed.

6. Hence, the order:

O R D E R

- (i) In the event of arrest of the Applicant in connection with with C.R. No. 94 of 2023 registered with Nanalpeth Police Station, Dist. Parbhani for the offences punishable under Sections 353, 332, 336, 294, 504 read with Section 34 of the Indian Penal Code, he shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) with one solvent surety in the like amount.
- (ii) He shall attend the concerned police station as and when required.
- (iii) He shall not contact the prosecution witnesses directly or indirectly.
- (iv) He shall not interfere with the evidence in any manner whatsoever.
- (v) He is further directed to cooperate the investigating agency for further investigation.

(R.M. JOSHI, J.)

Malani