

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

CRIMINAL APPLICATION (ABA) NO. 247/2023

Nandu @ Pundlik Dinkar Khanzod

Vs

State Of Mah. Thr. Pso, Ps Tamgaon, Tah. Sangrampur, Dist. Buldhana.

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

Court's or Judge's Order

Mr VS. Alone, advocate for the applicant.

Mr S.M. Ghodeswar APP for the respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 06/06/2023.

1. Heard.

2. The applicant is apprehending arrest in Crime No. 103/2023, registered with Police Station Tamgaon, District Buldhana for the offences punishable under Sections 353, 332, 188, 504 of the Indian Penal Code, 1860 and Section 3 of the Official Secrets Act, 1923.

3. The applicant is a reporter and agriculturist. On 10/04/2023, the applicant approached to the Office of Tahsildar for Inquiring about compensation for loss caused due to heavy rain in Sangrampur Tahsil. However, during the conversion, one Police Constable in civil dress approached him and snatch his mobile phone without any lawful authority. The applicant is apprehending arrest at the hands of the Police as the

crime was registered against the present applicant, on the basis of a report lodged by the Murlidhar Gaikwad on an allegation that the applicant entered into the office of the Tahsildar under the influence of liquor and interrupted the proceedings of Tahsil Office. On the basis of the said report, the crime was registered against the present applicant.

4. As the applicant is apprehending arrest at the hands of the Police, he preferred this application on the ground that merely because he was inquired about the compensation to the agriculturist who sustained loss due to the heavy rain in Sangrampur Tahsil, the Tahsildar implicated in the false allegation and lodged a false report against him. His physical custody is not at all required for the investigation purpose. His mobile phone is already seized by the Police for the investigation purpose. Hence, he be released on anticipatory bail

5. The said application is strongly opposed by the learned APP on the ground that the mobile phone of the present applicant is already seized. The statement of the eye-witnesses shows the involvement of the present applicant as the cell phone of the present applicant was having a numerical lock. The Investigating Agency would not find out whether the

applicant has recorded the proceedings or not, and therefore, the custodial interrogation of the present applicant is required.

6. Heard learned counsel for the applicant. He reiterated the contentions and submitted that even considering the allegation as it is, his physical custody is not required. Hence, he be released on anticipatory bail. The offence alleged is not punishable with imprisonment of more than 7 years and therefore, the arrest of the present applicant is not at all required.

7. Learned APP submitted that the statement of witnesses shows that the present applicant who is the Reporter entered into the Office of Tahsildar under the Drunken condition and threatened the Tahsildar as well as abused the persons present in the office. He has also recorded the proceedings in the Tahsil Office as his cell phone was locked, and the Investigating Officer could not find out about the record of the case. Hence, his physical custody is required. Therefore, the present application deserves to be rejected.

8. Heard both the sides. Perused the Investigation Papers. The alleged incident occurred on 10/04/2023 when the applicant entered into the Office of the Tahsildar, immediately the applicant was caught after

the said incident. His mobile phone was also seized at the spot itself. The investigation appears to be practically completed. Physical custody of the present applicant is not at all required. So far as the submission of the learned APP is concerned, as the cell phone was locked, the Investigating Officer could not find out whether he has recorded the proceedings or not, his physical custody is not required. The applicant can be directed to cooperate with the investigating agency and to assist the investigating officer to open the said mobile phone and to show what he has recorded with the help of the said cell phone.

9. In view of that, criminal application deserves to be allowed by imposing certain conditions. Hence, I proceed to pass following order.

- a) In the event of arrest of the applicant in Crime No. 103/2023, registered with Police Station Tamgaon, District Buldhana for the offences punishable under Sections 353, 332, 188, 504 of the Indian Penal Code, 1860 and Section 3 of the Secrets Act, 1923, the applicant -Nandu @ Pundlik Dinkar Khanzod is released on anticipatory bail on executing PR. Bond of Rs.15,000/- with one solvent surety of like amount.

- b) The applicant shall attend the concerned Police Station Tamgaon, District Buldhana, and with the investigating agency to open the cell phone to ascertain the recordings which he has recorded on the date of the incident.
- c) The applicant shall not tamper with the prosecution evidence or hamper the investigation.
- d) On breach of any of the conditions, the liberty is granted to the applicant deserves to be cancelled.

Criminal Application is **disposed of**.

JUDGE