

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2252 OF 2024**

Ashwini Anil Patil ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Sandesh D. Patil a/w. Ms. Anusha Amin, i/b. Chintan Shah for applicant.

Mr. Kiran C. Shinde, APP for respondent-State.

Mr. Ajit Sunil Sabale, API, Wada Police Station, District Palghar.

CORAM : MANISH PITALE, J.

DATE : 29th AUGUST, 2024

P.C. :

. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0261 of 2024 dated 26.06.2024 registered at Wada Police Station, District Palghar for offences under Sections 332, 353, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The informant in the present case is an employee of the Maharashtra State Electricity Distribution Company Limited (hereinafter referred to as the company). It is stated that the informant is working as *Vidhyut Sahayyak*, which can be roughly translated as Electrical Assistant. He claimed that on the date and time of the incident, when he was doing the work of recovery of the electricity bills, he received a call on his mobile from the co-accused person and when he went to the shop of the accused persons and informed them that he had partly paid their electricity bill by cash and partly online, the accused persons assaulted him and the specific role attributed to the

applicant is that she slapped the informant. It is claimed that since the informant was discharging his official duty when the aforesaid incident occurred, the said offences have been registered against the accused persons.

4. The learned counsel appearing for the applicant submits that even as per the statement of the informant, his duty as Electrical Assistant was to look after the maintenance of supply of electricity in the village. Recovery of arrears of electricity bills would not fall within the duty of the informant. It was further submitted that the statement of the informant itself demonstrates that he was acting beyond what could be said to be his official duty and therefore, the basic ingredients of the offences under Sections 353 and 332 are not made out. At worst, the offence could be said to be under Section 334 of the IPC, pertaining to voluntarily causing hurt on provocation, which is a bailable offence. On this basis, it is submitted that the applicant is a woman and she is ready to co-operate with the investigation and hence, the present application may be allowed.

5. On the other hand, the learned APP submitted that the informant was on official duty. The injury certificate shows that he indeed suffered simple injury on his head and below his left ear. The statements of the eye-witnesses were brought to the notice of this Court to show that the aforementioned incident did occur, indicating the active involvement of the applicant. On this basis, the prayer made in the present application was opposed.

6. This Court has considered the material on record, in the light of the rival submissions. For offences under Sections 332 and 353 of the IPC to be registered, the basic requirement is that the aggrieved person should be a public servant, who is discharging his duty as such public servant, when the incident in question occurs. In the present case, it can be said on the basis of

the statement of the informant that he is a public servant, as he works on the post of Electrical Assistant with the said company. But the crucial aspect is, as to whether it could be said that the informant in the present case at the time of the incident, was discharging his duty as public servant.

7. Even if the statement of the informant, which led to registration of FIR, is to be accepted as it is, the informant himself has stated that as an Electrical Assistant, his duty is to ensure maintenance of electricity supply in the village. *Prima facie*, recovery of arrears towards electricity bill amounts does not fall within the scope of his duty as Electrical Assistant. In any case, even if such duty was to be performed by the informant, it would be difficult to accept that as Electrical Assistant, it was his duty to collect amounts and that too, in cash from the consumers of electricity like the accused herein and then, to make the amount over to the said electricity distribution company. As per the statement of the informant himself, he took cash amount from the accused persons, part of which he allegedly deposited with the company in cash and the remaining amount was transferred online.

8. *Prima facie*, the aforesaid acts of the informant himself do not appear to be forming part of discharge of his duty as public servant and hence, the basic ingredients of Sections 332 and 353 of the IPC cannot be said to be made out.

9. If that be so, the incident becomes a simple incident between individuals, wherein the only overt act attributed to the applicant is that she allegedly slapped the informant. There is no allegation of use of any weapon and considering the injury report, at worst, it could be said to be a case of simple hurt being caused to the informant. Therefore, there is substance in the contention raised on behalf of the applicant that this could be said to be

a case under Section 334 of the IPC pertaining to voluntarily causing hurt on provocation, which itself is a bailable offence.

10. In view of the above, the application is allowed in the following terms:

- (i) In the event the applicant is arrested in connection with FIR No.0261 of 2024 dated 26.06.2024 registered at Wada Police Station, District Palghar, she shall be released on bail on furnishing PR Bond of ₹ 15,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
- (ii) The applicant shall remain present before the Investigating Officer, as and when required by the Investigating Office.
- (iii) The applicant shall not tamper with the evidence of the prosecution in any manner. She shall not influence the informant, witnesses and other persons concerned with the case.
- (iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial court.

11. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

12. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

13. The application stands disposed of.

(MANISH PITALE, J)