



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

CRIMINAL APPLICATION (ABA) NO. 595 OF 2024

Sheikh Asif Sheikh Munir Vs State of Maharashtra

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

Court's or Judge's Order

Mr. R.V. Tathod, counsel h/f Mr. S.S. Sheikh, counsel for applicant.
Ms. T.H. Udeshi, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 02/09/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No.355/2024 registered with Police Station Digras, District Yavatmal for the offence punishable under Sections 143, 294, 332, 353, 379 and 506 of the Indian Penal Code, 1860, the applicant approached this Court for grant of pre-arrest bail.

2. Heard learned counsel for the applicant, who stated that, on the basis of the report lodged by Jayant Prarkash Vyavhare, who is serving as Talathi at Amla. The crime is registered. He submitted that the allegation is that on 13/06/2024, the Talathi, i.e., the informant, received secret information that some persons were excavating the sand from the riverbed, and therefore, he along with Kotwal visited the said side. At the relevant time, co-accused Mohd. Adnan @ Golu Mohd. Matin and other co-accused were found transporting the sand illegally, and therefore, he restrained them, but they abused him and also manhandled him. On the basis of the said report, police have registered the crime. He

submitted that, as far as the applicant is concerned, his name is not mentioned in the FIR. In fact, he was not present at the spot; merely on suspicion, the police are behind him to arrest him.

3. Learned APP strongly opposed the said application and submitted that considering the applicant and other four to five persons were excavating the sand illegally. She also invited my attention towards the affidavit filed by the present applicant, wherein he has shown his willingness to produce his mobile phone. She submitted that as far as the Auto Rickshaw is concerned, he has brought that Auto Rickshaw before the investigation officer, but as the investigating officer has not seized the same, in view of that, if he is directed to produce the same along with the sand, this period can be considered his custody for the purpose of Section 27 of the Indian Evidence Act, 1872, then interrogation with him can be carried out by directing him to attend the concerned police station.

4. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers, from which it reveals that though his name is not mentioned in the FIR, his involvement is revealed from the investigation papers. Considering the affidavit on record, the applicant shall produce his bike, mobile phone, as well as the Auto Rickshaw along with the two brass sand, and this period can be considered his custody for the purpose of Section 27 of the Indian Evidence Act, 1872. In view of that, the application

deserves to be confirmed. Accordingly, I proceed to pass the following order:

ORDER

- a] The interim protection granted to the applicant dated 16/08/2024 is confirmed with further modification that he shall produce the above said articles i.e. bike, mobile phone, Auto Rickshaw along with two brass sand before the investigating officer, and this period can be considered as his custody for the purpose of Section 27 of the Indian Evidence Act, 1872.
- b] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- c] The applicant shall attend the concerned police station once in a week on Sunday between 10.00 a.m. to 01.00 p.m. till filing of the charge-sheet.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]