



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

CRIMINAL APPLICATION (ABA) NO. 718 OF 2024

ASHISH VITTHALRAO KALE 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. Rajnish Vyas, counsel for applicant.

Mrs. H.N.Prabhu, APP for non-applicant/State

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 27/11/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No. 887/2024 registered with Police Station MIDC Nagpur City, Nagpur for the offence punishable under Sections 85, 89, 118(1), 296, 3(5) of the Bhartiya Naya Sanhita, 2023, the applicant approached this Court for grant of pre-arrest bail.

2. Learned counsel for the applicant submitted that the crime is registered on the basis of a report lodged by Vaishali Kishor Kale, who is the wife of the co-accused and sister-in-law of the present applicant. The marriage was performed with the accused, and after marriage she resumed the cohabitation. As per her allegation, she was not treated well, and subsequently, they started residing separately. As her husband assaulted her, therefore, she left the house and went at her mother's house. Her mother again brought her back to the matrimonial house. On 09/09/2024, there was a quarrel, and during that quarrel,

the present applicant allegedly thrown a brick on her person, due to which there was a miscarriage. On the basis of said report, police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that the order passed by the Sessions Court reveals that regarding the incident dated 09/09/2024, one N.C. Report was filed. In the said N.C. Report, there is no allegation that it was the present applicant who assaulted the informant by means of a stick or a brick, though she was pregnant, which resulted into her miscarriage. He submitted that considering these observations, it is apparent that only to implicate the present applicant, who is the relative of her husband, this false allegations are made against him.

He also invited my attention towards the guidelines issued in the case of *Arnesh Kumar V State Of Bihar & Anr* **[[2014] 8 S.C.R. 128]**, and prays for protection to the present applicant.

4. Learned APP strongly opposed the said application and submitted that in the said incident, the informant has received the injury on her abdomen, which resulted into her miscarriage. Considering the role attributed to the present applicant, no case is made out for grant of ad-interim protection or anticipatory bail.

5. After hearing both sides and on perusal of the recitals of the FIR, which shows that the only allegation against the present applicant is that on 09/09/2024, he assaulted her by means of a stick. The history narrated before the medical officer shows that she was assaulted by the present applicant by throwing the brick. The observation of the Sessions Court shows that initially the N.C. report filed about the incident dated 09/09/2024, wherein no such allegations are made. The certificate regarding abortion is also collected by the investigating officer, which also nowhere shows that the assault by the present applicant resulted into miscarriage or the injury sustained by the injured. Thus, considering the entire investigation papers, at this stage, admittedly, there are allegations as to the assault by the present applicant, but there is no material to show that the said assault resulted into miscarriage of the informant. Moreover, the custodial interrogation of the present applicant is not required, as now, the applicant has already cooperated with the investigation, and the stick is already seized by the investigating officer. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order.

- a] The criminal application is allowed.
- b] In the event of arrest, the applicant – Ashish Vitthalrao Kale, shall be released on anticipatory bail, in connection with

Crime No. 887/2024 registered with Police Station MIDC Nagpur City, Nagpur for the offence punishable under Sections 85, 89, 118(1), 296, 3(5) of the Bhartiya Naya Sanhita, 2023, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- c] The applicant shall attend the concerned police station as and when required for the investigation purpose and shall cooperate with the investigating agency.
- d] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]