



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

CRIMINAL APPLICATION (ABA) NO. 715 OF 2024

Rahul @ Golu Ambadas Sisodiya and others 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. P.V. Navlani, counsel for applicants.

Mrs. Kavita Bhondge, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 12/11/2024.

1. Apprehending the arrest at the hands of police in connection with Crime no. 754/2024 registered with police station Gadge Nagar, Amravati for the offence punishable under Sections 118 (1), 74, 115(2), 352, 351(2) of the Bharatiya Nyaya Sanhita, (hereinafter referred to 'B.N.S. Act'), the applicants approached this Court for grant of pre-arrest bail.

2. Heard learned counsel for the applicants, who submitted that the report lodged and registered the offence by applying cognizable sections by the investigating agency by following illegal procedure. He submitted that, initially, the NC report was filed by the informant, and there was no cognizable offence registered or revealed from the allegations that are made against present applicants. He submitted that the present applicants were not involved in the assault on the informant, and other prosecution witnesses are outraging the modesty of the female members of the family of the informant. He submitted that there were

cross-complaints, but both the complaints were registered of that NC report, and subsequently, this report came to be registered, and while registering the offence, the investigating agency has not followed the proper procedure in view of Section 174 of the B.N.S. Act (Section 155 Cr.P.C.).

3. In support of his contention, he placed reliance in the case of *Mr. Asif Khan Pathan Vs State and others in Criminal Writ Petition No. 573 of 2023(F) decided on 16/10/2023 at Goa Bench*, wherein this Court has considered that the investigating agencies should not have registered such an FIR and sought to investigate into it without leave of the Magistrate under Section 155(2) of Cr.P.C. Neither the parties nor the investigating agencies can achieve indirectly what the law prohibits directly. These are matters of liberty, and Article 21 is clear when it provides that no person shall be deprived of liberty except otherwise than by the procedure established by the law.

4. The learned APP strongly opposed the said application and submitted that, from the recitals of the FIR and the investigation papers, the involvement of the present applicants reveals. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for the applicants and learned APP for the State, perused the recitals of the FIR as

well as documents filed on record, from which it reveals that initially, both parties have filed reports, which were non-cognizable offences registered against each other. Without following the procedure, the crime is registered against the present applicants. Considering that custodial interrogation is not required of the present applicants in view of the allegations levelled against them. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- a] In the event of the arrest, in connection with Crime no. 754/2024 registered with police station Gadge Nagar, Amravati for the offence punishable under Sections 118 (1), 74, 115(2), 352, 351(2) of the Bharatiya Nyaya Sanhita, the applicants (1) Rahul @ Golu Ambadas Sisodiya (2) Nikhil s/o Ambadas Sisodiya (3) Gaurav Motilal Vishwakarma, shall be released on anticipatory bail, on executing P.R. Bond of Rs. 25,000/- each with one solvent surety in the like amount.
- b] The applicants shall attend the concerned police station as and when required for the investigation purpose and shall cooperate with the investigating agency.

- c] The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

Criminal application is allowed and disposed of.

[URMILA JOSHI-PHALKE, J.]