



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

CRIMINAL APPLICATION (ABA) NO.815 OF 2023

Jagannath s/o Tulsiram Yelake

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Pombhurna, District Chandrapur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Nichay Jadhav, Advocate h/f Mr. N. B. Kirtane, Advocate for applicant.
Mr. V. A. Thakare, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 06/02/2024

1. Apprehending the arrest at the hands of police, the present applicant is seeking pre-arrest bail in connection with Crime No.136 of 2023, registered under Sections 143, 144, 147, 341, 452, 148, 353 and 506 read with Section 149 of the Indian Penal Code, 1860 and under Section 135 of the Maharashtra Police Act, 1951.

2. The accusation against the present applicant is on the basis of report lodged by one Fanindra Gadewar on an allegation that the applicant, who is Taluka President of Gondwana Ganantra Party, which is formed for the purpose of representing the rights of the Gondwana Community in Chandrapur District. It is alleged that present applicant was agitating along with 300 to 400 persons and insisting and instigating the agitators to enter into the office of

forest, and therefore, the agitators entered into the office of forest and caused the damage to the public property. It is further alleged that the present applicant has snatched the Dupatta of the Sub-Divisional Magistrate (SDM).

3. Learned counsel for applicant submitted that in fact, there is no specific allegation that in what manner the present applicant has instigated the crowd. The crowd was gathered there for the agitations for their demands and the applicant being their leader was present there. No overt act is attributed to him. In view of that, the interim protection granted to him be confirmed.

4. Learned APP strongly opposed the application and submitted that the video shooting of this incident shows that in what manner the present applicant has instigated the other members gathered there. They have committed the offence in furtherance of their common intention by restraining the public officer from discharging their duties. He further submitted that the statements of the witnesses show that the present applicant has snatched the Dupatta of the SDM, which is sufficient to show that the attempt was made to outrage her modesty. In view of that, the protection granted to the present applicant, deserves to be cancelled.

5. Having heard the learned counsel for applicant and perused the various statements. As far as the allegation of snatching of the Dupatta is concerned, which is attributed to some women agitators. After watching the entire video clipping and after going through the statements of the witnesses, there is no overt act attributed to the present applicant. As far as the allegation of instigation is concerned, it is also not in a specific manner in which the applicant has instigated the other crowd. In view of that, the custodial interrogation of the present applicant is not required and, therefore, the interim protection granted to the present applicant deserves to be confirmed. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) In the event of arrest in connection with Crime No.136 of 2023, registered with Police Station, Pombhurna, District Chandrapur, for the offence punishable under Sections 143, 144, 147, 341, 452, 148, 149, 353 and 506 read with Section 149 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act, the applicant namely **Jagannath Tulsiram Yelake**, be released on anticipatory bail on executing of P.R. Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

(iii) The applicant shall attend the concerned Police Station as and when required for the investigation purpose and shall cooperate with the investigation.

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.

(URMILA JOSHI-PHALKE, J.)