



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 60 OF 2025

**SHAIKH LATIF SHAIKH NABI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Appellant : Mr. Syed Azizoddin R
APP for Respondent No.1/State : Mr. K.K. Naik

Advocate for Respondent No.2 : Mrs. Asha Gore
(Appointed through Legal-Aid Committee)

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CORAM : SHAILESH P. BRAHME, J.

DATE : 17th APRIL 2025

PER COURT :

. Heard learned Counsel for the Appellant and learned APP for Respondent No.1.

2. Appellant is seeking pre-arrest protection which was denied by impugned order. He was granted protection vide order dated 24.01.2025, pending his appeal. There is no grievance of the Respondent No.1 for breach of conditions imposed, while granting him interim protection.

3. Respondent No.2 lodged report that when she had been to place of the Appellant, demanding rent of the auto rickshaw which was owned by her son, the incident took place on 20.12.2024 at about 7.00 pm.. There was hot exchange of words between Appellant

and Informant. Appellant is alleged to have abused her on caste, pushed her and beaten her.

4. Learned Counsel for the Appellant submits that the incident occurred within four walls in the house of the Appellant which was not within public view. He would submit that there was no intention to abuse the Informant. On the contrary, the dispute between the parties was on account of money. It is further submitted that the allegations are not serious in nature and Appellant is entitled to pre-arrest protection.

5. Learned APP tenders on record relevant papers of the investigation. He would submit that there are three eye witnesses namely Kamlakar, Prashant, Madhukar to disclose incriminating role of the Appellant. My attention is adverted to spot panchanama as well as statements of the witnesses to show that incident occurred in a lane and not in the house of the Appellant. It is further submitted that statement under Section 164 of the Informant and her injury certificate corroborate the prosecution theory.

6. I have gone through the relevant papers specially statements of the witnesses. The witnesses referred above are the eye witnesses. At the first blush of the FIR, one carries impression that occurrence of the abuses was in the house of the Appellant. Considering the statements and the spot panchanama, the possibility of the incident having taken place within public view, cannot be ruled

out. The injury certificate of the Informant shows simple injuries.

7. Considering overall circumstances, I do not find that the allegations are serious in nature to deny the pre-arrest protection.

8. The Appellant and the Informant were knowing each other. Appellant had taken auto rickshaw of the son of the Informant on rent. There was dispute over the payment of rent. In all probabilities, implication of the Appellant for non-payment of dues cannot be ruled out. In view of judgment of the Supreme Court in the matter of **Hitesh Verma Vs. The State of Uttarakhand and Ors.**, AIR 2020 SC 5584 and specially the principles laid down in paragraph no.18, I am of the considered view that the Appellant is entitled to the protection.

9. I have gone through the observations of the judgment and order. However I find that the above aspect of the matter is overlooked by the learned Judge. The impugned judgment and order is unsustainable.

ORDER

(a) Criminal Appeal is allowed and the impugned order is quashed and set aside.

(b) The interim order of pre-arrest protection granted on 24.01.2025 stands confirmed with modification to clause no.(v) that instead of attending the police station everyday, Appellant shall attend the same on every Sunday.

(c) Learned Counsel Mrs. Gore for Respondent No.2 is entitled to receive remuneration to be quantified by Legal-Aid Committee.

SHAILESH P. BRAHME
JUDGE

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