



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO. 20 OF 2025

Javed S/o. Chotekhan Pathan

.vs.

The State of Maharashtra, through PSO PS Kapil Nagar, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr Mir Nagman Ali, Advocate for the applicant
Mr Neeraj Jawade, APP for the non-applicant/State

CORAM : G.A. SANAP J.

DATE : FEBRUARY 07, 2025

Heard.

2. This is an application for anticipatory bail in crime bearing No. 488 of 2024 registered at Kapil Nagar Police Station, District Nagpur, for the offences punishable under Sections 132, 296 and 351(3) of the Bharatiya Nyaya Sanhita, 2023.

3. The learned Advocate for the applicant would submit that considering the nature of the crime alleged to have been committed by the applicant/accused his arrest is not necessary. The investigation can be carried out without his arrest. It is also submitted that the report lodged against the applicant is false and frivolous. The concerned RTO, Officer had a grudge against the applicant. It is further submitted that the offences alleged

to have been committed have not been made out on the basis of the FIR. The applicant has no criminal antecedents.

4. The learned APP would submit that the applicant has criminal antecedents. The crime bearing No. 274 of 2020 was registered against the accused at police station Kuhi for the offences punishable under Sections 353, 143, 506 of the Indian Penal Code read with Section 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The case against the applicant is pending. The learned Advocate would submit that the entire incident was video recorded by the people gathered on the spot. Learned APP played the said video in the Court and submitted that the offences committed by the accused are serious. The RTO Officer had no personal enmity with the applicant. It is pointed out that the wife of the applicant is running a driving school and one of the candidate could not succeed in a driving test conducted by the informant and therefore, the applicant came to the spot and obstructed the officer from discharging his duties. The applicant used criminal force. It is submitted that this is not a fit case for the grant of anticipatory bail.

5. I have gone through the record and proceedings. Learned Advocate for the applicant submitted that the investigating officer has not issued a notice under Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The investigating officer, present at the time of the hearing, submitted that the arrest of the accused is necessary. He has grounds and reasons to arrest the accused and which he will state in his remand application.

6. I have seen the video recording of the incident. It is undisputed that the wife of the applicant is running a driving school. Undisputedly, one candidate had failed in driving test. The applicant had a grudge against the RTO Officer and he came to the spot with his companions and committed this offence. The video recording would show that the applicant abused the RTO Officer in filthy language. He misbehaved with the RTO Officer. It is further seen that the language used by him was unparliamentary. The officer was discharging his duties.

7. It appears that, time and again, the applicant was pressurizing the RTO Officers for a successful result of a driving test of the candidates. The driving school is in the name of wife of the applicant. The wife did not come to the spot. Even if it is assumed that for removing some

queries the Officer had called the wife of the applicant personally, it was in discharge of his official duties. In my view, in such cases, the Court has to be very careful. The applicant not only used filthiest language against the Government Officer, who was on duty in his uniform but also threatened him of dire consequences. In my view, the offence of use of criminal force against the Government servant in discharge of his duties has been made out. In such a case, the Court has to be very careful and circumspect while granting anticipatory bail in a routine manner. Granting anticipatory bail can send the wrong message to the society and to the officers who are honestly discharging their duties. It can discourage the honest officers.

8. Learned APP pointed out that in the earlier crime the anticipatory bail was granted to him. It is submitted that the applicant, in view of the protection from arrest granted in the crime, was emboldened. The video recording played before me would show that the offence committed by the accused is serious. He doesn't deserve leniency. He has a criminal antecedents. As far as his arrest is concerned, as and when it is effected, the investigating officer would justify the reason for the arrest before the concerned Magistrate. The said issue

particularly in the context of the grounds set out in the remand application will have to be decided by the jurisdictional Magistrate. While deciding the anticipatory bail the said issue cannot be gone into. It is to be noted that if the jurisdictional Magistrate is satisfied that there are no reasons for effecting the arrest or the reasons given are not justified, then he can take appropriate action. However, on the say of the applicant that there are no reasons to arrest him or his arrest is not necessary cannot be considered. In view of this, I am satisfied that this is not a fit case to exercise the discretion in favour of the applicant. Accordingly, the application is **rejected**.

9. The criminal application stands disposed of, accordingly. Pending applications, if any, also stand disposed of.

(G. A. SANAP, J)

Namrata