



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

CRIMINAL APPLICATION (ABA) NO.185 OF 2025

Shivaji s/o Madhukar Kharate

Vs.

State of Maharashtra, through Police Station Officer, Police Station
Nandura, District Buldhana

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

Court's or Judge's orders

Mr. A. S. Mardikar, Senior Counsel a/b Mr. A. M. Tirukh, Counsel for the
applicant.

Ms. T. H. Udeshi, APP for non-applicant / State.

Mr. Vivek Awachat, Counsel for the complainant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 07/04/2025

1. Apprehending the arrest at the hands of police in connection with Crime No.3/2025 registered with Police Station, Nandura, Tah. Nandura, District Buldhana for the offence punishable under Sections 109, 118(1), 115(2), 353, 351(2), 351(3) and read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023, the applicant approached this Court for grant of pre-arrest bail.

2. Heard learned Senior Counsel Mr. A.S. Mardikar, for the applicant, who submitted that the crime was registered on the basis of a report lodged by Malubai Kharate, on an allegation that out of a previous dispute, her husband was assaulted by the present applicant by means of an iron rod, and

therefore, he sustained the injuries. Learned Senior Counsel invited my attention towards a medical certificate issued by Vatsal Hospital and Research Centre, Akola, and submitted that the said report shows that a history of assault on 03/01/2025 was given before the Medical Officer, and it also shows that a fall from 15 feet height and sustained the injury to the head. Thus, this certificate itself is sufficient to show that the act of the present applicant has nothing to do with the injury sustained by the injured. As far as the custodial interrogation of the present applicant is concerned, which is not required. The iron pipe is already seized. In view of that, the applicant be released on bail.

3. The learned APP strongly opposed for the same and submitted that, due to the blow given by the present applicant by iron rod on the head of the injured, he has sustained the grievous injuries. She has invited my attention towards the medical certificate of Primary Health Center wherein the applicant was immediately taken, wherein the history of assault was given, thereafter the applicant was taken and she was referred to the higher center. He has undergone the surgery also and was admitted in the hospital for twenty days. Considering the nature of the injury sustained by the applicant and the assault by the present applicant against the head of the injured which is vital part of the body, the application deserves to be rejected.

4. Learned Counsel for the applicant placed reliance on the decision of **Smt. Parisha Trivedi and another vs. State of Chhattisgarh** reported in **2024 ALL MR (Cri) Journal 185**. I have gone through the facts of the cited case. The facts of the cited case shows that the applicant therein has allegedly committed the theft of the mobile phone. In fact, it revealed during the investigation that mistakenly she has taken the said mobile phone and therefore, the Court while using the discretion in favour of the applicant observed that considering the parties relations, accused was released on bail.

5. In the present case, the nature of the injury which is grievous, the part of the body chosen is a vital part of the body, a major role is attributed to the present applicant and the considerable period of the treatment of the injured is 20 days, the *prima facie* case is made out against the present applicant. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)