



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

CRIMINAL APPLICATION (APPP) NO. 527 OF 2025 IN
CRIMINAL APPLICATION (ABA) NO. 185 OF 2025

Shivaji s/o Madhukar Kharate 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. A.S. Mardikar, Senior Counsel with A.M. Tirukh, counsel for applicant.

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

Mr. Vivek Awachat, counsel for Assist to Prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/03/2025.

1. By this application, the complainant is seeking permission to engage the counsel to assist the prosecution.

2. In view of reason mentioned in the application, permission is granted to the complainant to engage the counsel to assist the prosecution.

3. The criminal application (APPP) No. 527 of 2025 is disposed of.

CRIMINAL APPLICATION (ABA) NO. 185 OF 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 Mr. A.S. Mardikar, learned Senior Counsel 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 wait to the injury sustained by the injured. As far as the custodial interrogation of the present applicant, which is required only for the purpose of the seizure of the iron pipe. The applicant is ready to cooperate with the investigating agency. Now, the injured is already discharged from the hospital, his custodial interrogation is not required.

3. The learned APP strongly opposed the said application and submitted that, while considering the bail application of the present applicant, the Sessions Judge has considered the same and also considered the order passed by this Court while releasing the other co-accused on

anticipatory bail. She further submitted that the investigation is to be carried out and therefore, custodial interrogation of the present applicant is required not only for the purpose of recovery of the article, but for the interrogation purpose also. As the present applicant is the prime accused, therefore the prayer for grant of ad-interim anticipatory bail deserves to be rejected.

4. Learned counsel for the complainant also endorsed the same contention and submitted that, considering the role of the present applicant, his prayer for grant of ad-interim protection deserves to be rejected.

5. On hearing both sides and on perusal of the recitals of the FIR and the medical certificate, it reveals that the injured is already discharged from the hospital. Whether injured has sustained the injury due to the assault or due to the fall from the height is a matter of investigation. As far as immediate custodial interrogation is concerned, which is required for the purpose of recovery of the iron pipe, which can be taken care of by imposing certain conditions on the present applicant. In view of that, the prayer for grant of ad-interim protection deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- a] In the event of arrest, 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 *Shivaji s/o Madhukar Kharate* shall be released on ad-interim anticipatory bail, on executing PR Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

- b] The applicant shall attend the concerned Police Station twice in a week on Monday and Friday between 10.00 a.m. to 1.00 p.m. and shall cooperate with the investigating agency.
- c] The applicant shall also produce the iron pipe which allegedly used in the commission of crime and this period will be considered as his custody for the purpose of Section 23(2) of the Bharatiya Sakshya Adhiniyam, 2023, (27 of the Indian Evidence Act, 1872).
- d] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- e] Learned APP waives notice for the State and seeks time to file reply.

6. Stand over after two weeks

[URMILA JOSHI-PHALKE, J.]