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

CRIMINAL APPLICATION (APL) NO.976 OF 2025

1. Sushant s/o Ramchandra Kinkar,
Aged about 18 Years,
Occupation : Student,
R/o. Flat No.103, Madhushila
Apartment, Plot No.12,
Beside Padole Hospital
District Nagpur.

.... APPLICANT

// VERSUS //

1. State of Maharashtra,
Through Station Incharge,
Police Station Ranapratap
Nagar, District Nagpur.
2. Aadesh s/o Gajanan Nikhade
Aged about 18 Years,
Occupation : Student,
R/o. C/o. Sanjay Shende,
Second Bus Stop,
Gopal Nagar, Ranapratap Nagar,
Nagpur.
Address: R/o. Aashi, Post Dahegaon,
Taluka warora, District Chandrapur.

....NON-APPLICANTS

Mr. H. H. Jichkar, Advocate for applicant.
Ms. H. N. Prabhu, APP for non-applicant No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/03/2026

ORAL JUDGMENT :

1. Heard.
2. **Admit.**

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3. Heard finally with the consent of the learned Counsel for the applicant and learned APP for the State.

4. Despite service of notice, none appears for the non-applicant No.2.

5. By this application, the applicant is seeking quashing of the FIR in connection with Crime No.165/2024 registered with Police Station, Ranapratap Nagar, District Nagpur for the offence punishable under Sections 363, 511 read with Section 34 of the Indian Penal Code, and the consequent proceeding arising out of the same bearing RCC No.3586/2024.

6. The crime is registered on the basis of a report lodged by the non-applicant No.2 on an allegation that on 08.04.2024 at about 6.45 a.m., when he was proceeding by walk, at that time one car came near to him, three persons get down from the said car and attempted to put him in the said car by forcing him and also by dragging him. At the relevant time, his friends shouted for help and the people who were on the road also shouted, and therefore, those persons left the place. On the basis of the said report, police have registered the crime against the present applicant and the other co-accused. During the investigation, the Investigating Officer has recorded the relevant statements of the witnesses and after completion of the investigation, the charge sheet was submitted against the present applicant.

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7. Learned counsel of the present applicant submitted that the name of the present applicant is not mentioned in the FIR. The statement of the witnesses also nowhere discloses any role attributed to the present applicant. In fact, his presence at the spot of incident itself is not established from the statements of the witnesses. In view of that, no *prima facie* is made out and hence, the application deserves to be allowed.

8. Per contra, learned APP strongly opposed the said contention and submitted that the vehicle which was used in the commission of the crime bearing No. MH-40-AC-6144 is owned by the mother of the present applicant, which is used in the commission of the crime. Moreover, the statements of the witnesses, especially the statement of Narayan Rameshchandra Sharma state that after the suspects were caught by the police, the said persons were shown to the non-applicant No.2 as well as other witnesses and they have identified them. Thus, he submitted that considering the statement of Narayan Rameshchandra Sharma, the statement of the other witnesses and the involvement of the vehicle in the present crime, at this stage, sufficient to show the involvement of the present applicant in the alleged offence, and therefore, the application deserves to be rejected.

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9. On hearing both sides and on perusal of the investigation papers, there is no dispute that the vehicle bearing No.MH-40-AC-6144 was found to be involved in the said commission of the crime, which is in the name of the mother of the preset applicant. As far as the statement of the informant is concerned, he has described the description of the persons who attempted to kidnap him by using force. The statements of the other witnesses are also recorded, especially the statement of Narayan Rameshchandra Sharma, which shows that the said suspects were immediately caught after the police were informed and the said persons were shown to the informant as well as the witnesses, who were present at the spot of incident and they have identified. Admittedly, no identification parade is carried out, however, the statement of Naryan Rameshchandra Sharma shows that after the incident immediately within some time, these persons were shown to the witnesses and the witnesses have identified the same. At this stage, this material is sufficient to frame the charge against the present applicant. The statements of the other witnesses also disclose regarding the incident and also description vehicle number is also disclosed by the witnesses especially witness Vedant Narendra Dhande.

10. After considering the entire investigation material and applying the parameters laid down by the Hon'ble Apex Court in the case of **State of Haryana and others Vs Bhajan Lal and**

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others reported in **1992 Supp. (1) SCC 335**, which reads as under:

"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

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11. The *prima facie* case is made out against the present applicant. At least there is some material to show that the involvement of the present applicant cannot be ruled out. In view of that, this is not a fit case wherein the exercise of jurisdiction under Section 482 of the Code of Criminal Procedure would be justifiable.

12. It is well settled that the jurisdiction under Section 482 of the Code of Criminal Procedure to be exercised sparingly and not in a routine manner. Considering the statements of the witnesses and other circumstances, the involvement of the present applicant cannot be ruled out. 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)