

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2387 OF 2022**

Yogesh Tanaji Khandare ... Petitioner

Versus

The State of Maharashtra and another ... Respondents

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Ms. Pratiksha Shetty for the Petitioner.
Mrs. A.S. Pai, PP for the State.

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**CORAM : NITIN JAMDAR AND
N.R. BORKAR, JJ.**

DATED : 24 AUGUST 2022

P.C. :-

1. This Petition is filed for quashing the FIR No. 21 of 2022 registered at Dahisar Police Station under Section 188 and 269 of the Indian Penal Code read with Sections 37(1) and 135 of the Bombay Police Act, 1951.

2. The FIR is lodged on the allegation that the Petitioner alongwith five other persons was accosted in public place without wearing any mask.

3. The learned Counsel for the Petitioner submits that the Petitioner was not with the other five persons and at the most the allegation in the FIR would be of not wearing a mask. The learned

Counsel submitted that the Petitioner is a student intending to pursue his studies/career.

4. We can visualize the difficulties expressed by the Petitioner regarding the pending prosecution and the effect of the same on his education, however, we have to be mindful of the scope of jurisdiction which we are called upon to exercise. A query was put to the learned Public Prosecutor as to what is the stand of the prosecution in this matter, as the situation of pandemic prevalent as of January 2021 and the prohibitions imposed then, is no longer present and we find that in many cases prosecutions have launched for not wearing a mask. The learned Public Prosecutor submits that having once launched the prosecution and filed the charge-sheet, it is not possible to make any statement on behalf of the prosecution. However, the State can look into the course of action to be adopted for the offence such as the one in present case.

5. We defer the hearing of this Petition to 13 September 2022. To be listed under the caption 'For Directions'.

6. The Office of the Public Prosecutor will place a copy of this order before the Secretary (Home), State of Maharashtra for consideration.

7. All the parties shall act on the authenticated copy.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)