

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

Criminal Application [ABA] No.156 of 2015

(Gopal Purushotam Bobade

vs.

The State of Maharashtra, through Station House Officer, Wadgaon Police Station, District Yavatmal)

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Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

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Court's or Judge's Orders

CORAM : PRASANNA B. VARALE, J.

DATE : APRIL 16, 2015.

Heard Mr. V.D. Darne, the learned Counsel for the
applicant.

The applicant is before this Court seeking
protection in the nature of pre-arrest bail apprehending his
arrest in connection with Crime No.56/2015, registered at
Police Station Wadgaon Road, District Yavatmal for the
offences punishable under Section 326 read with Section 34
of the Indian Penal Code.

The learned Counsel for the applicant vehemently
submitted that the applicant is falsely implicated. His
submission is, the so called victim in the incident alleged
against the applicant himself entered in the house of the
applicant and gave abuses. The learned Counsel, by inviting
my attention to the report lodged at the instance of the wife of

the applicant, submits that the report lodged against the applicant is nothing but a counter blast. He then submits that as the applicant extended his cooperation to the investigating agency when he was protected by the learned Sessions Judge and as nothing is to be recovered at the instance of the applicant, the applicant would be protected by grant of pre-arrest bail.

Mr. P.V. Bhoyar, the learned A.P.P. opposes the application and made available the material collected in the investigation.

On the backdrop of the submission of the learned Counsel for the applicant, I have gone through the material. The material placed on record, namely the report lodged against the applicant at the instance of one Asha Surjuse, reveals that on 26/02/2015 at about 07:45, she heard some noise and when she came out of her house, she was informed that her son is subjected to an assault. Asha along with her daughter immediately rushed to the hospital and made enquiry with son viz. Bhupesh Surjuse. On enquiry, Bhupesh states that he had been to the house of the applicant and hurled abuses and, therefore, the applicant and his sons with hockey stick and bat gave blows causing head injury to him.

This report lodged against the applicant at the police station at 22:25 hours. On the backdrop of the submission of the learned Counsel for the applicant, the report of the wife of the applicant is also perused. She states that Bhupesh threw some stones, hurled abuse and gave threats. This report lodged at the instance of Smt. Nilam Bobade, the wife of the applicant, is subsequent to the report lodged against the applicant i.e. at 22:45 hours. Thus, it clearly reveals from the documents placed on record that the victim himself admits that he had been to the house of the applicant and on that count he was subjected to assault.

Considering the role played by the applicant, the material collected in the investigation clearly reveals that the applicant and his sons acted in aggression. The medical certificate issued by the Medical Officer of Shri Vasantrao Naik Government Medical College and Hospital, Yavatmal shows that Bhupesh, the victim of the incident, received three injuries i.e. two CLW on right and left temporal parietal region and one injury to left leg. The statement collected by the investigating agency of Bhupesh reveals that when the victim was standing in front of his house on 26/02/2015 at 07:30, the applicant gave some abuses to him. The victim then entered in the house of the applicant to enquire with

him, why the applicant abused him. The applicant again started giving abuses to him, on that the victim also hurled abuses. At about 07:45, the applicant and his son armed with hockey sticks and bat gave blows to the victim receiving injury to head. The other statements of the witnesses, though they are not the eye witnesses, reveal that when they reached hospital and made enquiry with the victim, the act of the applicant was made known to them. The Government Medical College, Yavatmal also issued a certificate through the Department of Radiology and Imaging CT Scan. The certificate shows that the victim was subjected to C.T. scan and the result shows a small subdural haemorrhage in left parietal region. Thus, the material clearly shows that the victim received the injuries as reflected in the report and the statement of the victim. It also reveals that the applicant and his sons gave blows, who were armed with hockey sticks. Thus, the presence and the act of the applicant clearly reveals on the record causing serious injuries to the victim.

In view of this fact, I am unable to accept the submission of the learned Counsel for the applicant that a false case is planted against the applicant.

Considering the material, in my opinion, the applicant is not entitled to be protected by the pre-arrest protection. The application is thus being meritless, deserves to be rejected and the same is accordingly rejected.

JUDGE

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