

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

Criminal Application [ABA] No.176 of 2015

(Mohd. Atiq Sheikh Yunus

vs.

The State of Maharashtra, through P.S.O. Achalpur, District Amravati)

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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

Mr. R.D. Karode, Advocate for the Applicant.

Mr. R.S. Nayak, A.P.P. for the Non-Applicant/State.

CORAM : PRASANNA B. VARALE, J.

DATE : MAY 5, 2015.

Heard 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 Crime No.116/2014, registered at Police Station Achalpur, District Amravati for the offences punishable under Sections 324, 326 read with Section 34 of the Indian Penal Code.

The learned Counsel for the applicant submits that the report lodged against the applicant and other accused at the instance of one Mohd. Aslam s/o Sheikh Isrial is nothing but a counter blast. He submits that though the applicant is shown as an assailant in the report of Mohd. Aslam, the applicant himself was seriously injured and a report was lodged at the instance of father of the applicant viz. Mohd.

Yunus. He further submits that the applicant was protected by this Court by order dated 07/04/2015. The learned Counsel, also by inviting my attention to the order passed by this Court in Criminal Application [APPP] No.210/2015 in Criminal Application [ABA] No.34/2015, submits that in Criminal Application No.34/2015, it was the case of the investigating agency itself that the applicant was subjected to an assault on vital part of his body and the attack on the applicant was with full force. The learned Counsel, by placing on record the latest certificate issued by the Neurosurgeon, Central India Institute of Medical Sciences, Nagpur, submits that surgery is advised and the Neurosurgeon opined that the applicant is not fit to join duty or perform his day-to-day work. The learned Counsel further submits that in such a situation, there cannot be any apprehension that the applicant would flee away and will not be available to the investigating agency. The learned Counsel, therefore, prays for protection in the nature of pre-arrest bail.

The learned A.P.P. opposes the application.

I have gone through the material placed on record. The report lodged by Mohd. Aslam itself refers to a dispute on account of disturbance made in the religious function. The material placed on record though refers the presence of the

applicant, the material further shows that the applicant himself was seriously injured. While considering Criminal Application No.34/2015, this Court observed that the witnesses stated that the present applicant-Mohd. Atiq received a blow at the hands of Mohd. Zubair s/o Mohd. Sabir. He was initially shifted to a private hospital at Nagpur and on the next day, he was shifted to CIIMS Hospital, Nagpur. The certificate issued by the hospital authority reveals that the applicant was admitted as a patient of Post Traumatic severe injuries and was in need of emergent medical care and assistance. This Court also observed that the certificate issued by the hospital further reveals that the condition of the applicant was so critical that he was provided life saving support like ventilator. The Senior Consultant in Neurosurgery Department of CIIMS Hospital opined that it was the case of right frontal contusion with right FTP acute SDH with left parietal contusion. The certificate placed on record today shows that the applicant was under treatment from 02/11/2014 to 16/12/2014. The certificate further reveals that the applicant is not taking oral intake and has dysarthria. The Neurosurgeon further opined that his surgery will be planned for cranioplasty in next month and his neurological status is not fit to join him for duty or not to

perform his day to day work.

Considering all these aspects, in my opinion, the learned Counsel for the applicant has made out a case for protecting the applicant. The apprehension of the State can be taken care of by imposing conditions on the applicant.

In the result, the application is allowed. The interim protection granted by this Court by order dated 07/04/2015 is confirmed with a condition that the applicant to attend Police Station Achalpur, District Amravati once in a month and maintain a diary of his attendance duly countersigned by the Police Station Officer or the Investigating Officer till the charge-sheet is filed.

The application is disposed of in above terms.

JUDGE

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