

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

Criminal Application [ABA] No.629 of 2014

(Gopal Shrikrushna Manmode

vs.

State of Maharashtra, through P.S.O. Buldhana [City], District Buldhana)

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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 : JANUARY 28, 2015.

Heard Mr. N.B. Kalwaghe, the learned Counsel for the applicant.

The applicant is before this Court apprehending his arrest in connection with Crime No.97/2014 registered at Police Station Buldhana (City) for the offences punishable under Sections 326, 120-B and 109 read with Section 34 of the Indian Penal Code.

The learned Counsel for the applicant submits that the applicant is falsely implicated in the Crime No.97/2014. He submits that the applicant is a teacher and having no concern either with the complainant-Nilesh Gadekar or any other person. He further submits that the only material against the applicant is in the form of a statement of co-accused. It is submitted that on such a weak material, the liberty of the applicant cannot be curtailed. It is also submitted that the investigating agency has

collected most of the material and, therefore, the custodial interrogation of the applicant is not necessary. It is further submitted that the applicant was protected by an interim order of this Court and the applicant complied with the directions of this Court and also extended his full co-operation to the investigating agency.

Mr. D.B. Patel, the learned A.P.P. vehemently opposes the application. The learned A.P.P. submits that on receiving the report at the instance of one Nilesh Gadekar, the investigating agency was set in motion. He submits that initially the victim Nilesh reported that two unknown persons riding on a motorcycle came to his field and while he was having conversation with his brother on mobile phone, he was assaulted with a tommy. Due to assault, he became unconscious. Those two persons fled away from the spot. The victim was initially referred to a private hospital and subsequently was treated at Aruangabad. The learned A.P.P. submits that the report was the starting point for the investigation. In the process of investigation, it was revealed that the brother of the complainant viz. Gajanan Gadekar hatched the plan for taking revenge. The learned A.P.P. further submits that initially when the complainant was medically treated, there were no details, but in the supplementary statement of the complainant, there were certain clues. He further submits that in the process of

investigation, the investigating agency found the material that the accused including the applicant were constantly in touch. His submission is, the applicant provided financial help and as such he was in touch with the other accused.

The learned Counsel for the applicant submits that the applicant provided help to Ganesh Pilley for set up the garage. The amount was then sought to be returned and accordingly the phone calls were made to Ganesh Pilley.

For consideration of the application seeking pre-arrest bail, it is not necessary to disclose the material at length, as the investigating agency is in the process of investigation, and certain material aspects are necessary to be referred. The complainant Nilesh received successive blows of tommy and was under treatment. The treatment initially provided shows that the victim was referred to a private hospital at Buldhana. The city scan refers to the impression – *CT BRAIN PLAIN SCAN SHOWS EXTRADURAL HEMATOMA IN LEFT PARIETAL REGION. FRACTURE IN LEFT PARIETAL BONE SUBGALEAL SOFT TISSUE SWELLING IN LEFT PARIETAL REGION.* Thus, there cannot be any dispute that initially the victim was under an extensive treatment. Subsequently a detail statement is recorded on 25/11/2014. The victim states that there was a partition between the brothers. His brother Gajanan wanted more share in the agricultural land. He also wanted that the agricultural

land in the name of mother and father be transferred to him. Victim opposed this proposal. In that detailed statement, victim Nilesh then states that prior to the incident of 06/05/2014, he was subjected to a similar incident. The victim then states that he was receiving phone calls informing him that a plan was hatched by his brother to eliminate him. The victim was also informed on telephone that to give effect to that hatched plan, initially attempt was made but as the agreed amount was not received, the plan was left midway. The victim then asked the person, who was establishing contact with him to visit him personally and in turn informed the police personnel. The material collected by the investigating agency also reveals the constant communication of this applicant with the another accused, though an attempt was made to say that the applicant provided financial help to one Ganesh Pilley and in the process of repayment of the amount, the phone calls were made to Ganesh Pilley. The material collected by the investigating agency is not limited only to the calls of Ganesh Pilley, but constant calls to the another accused Pawansingh. These calls are from 16th of March, 2014 onwards.

Though it is not necessary to refer this material, but for the submission of the learned Counsel that the applicant had no concern and he is falsely implicated, the material clearly discloses the constant communication of this applicant with

other accused. The applicant himself submits that he provided financial help to Ganesh Pilley, but there is no reason reflected in the application or otherwise for having any nexus of any financial transaction and in that connection, contacts were established with the other accused. The investigating agency is in the initial stage, There are other factors, which also reveals in the process of investigation. The investigating agency as such will have to proceed further to unearth the other material and the other links. The fact, that the victim was assaulted on earlier occasion also, shows that the victim was on the radar of the ill-intention carried by the accused persons.

Considering this material, in my opinion, the custodial interrogation of the applicant would be must and necessary. The application as such deserves to be rejected and the same is accordingly rejected.

Prayer for extension of the protection is rejected. Interim protection granted to the applicant earlier by this Court stands vacated.

JUDGE

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