

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5957 OF 2016

Umesh S/o Dadarao Chakre,
Age : 31 years, Occu.: Labourer,
R/o Murlidharnagar, Osmanpura,
Aurangabad, Tq. and Dist. Aurangabad

.. Applicant
(Orig. Accused)

Vs.

1] The State of Maharashtra

2] The Police Inspector,
Kranti Chowk Police Station,
Dist. Aurangabad

.. Respondent

Mr. H.V. Tungar, Advocate for the applicant
Mr. S.D. Ghayal, APP for the respondent/State

CORAM : A.S. CHANDURKAR, J.
DATE : 29/11/2016

ORAL ORDER :

Heard.

2. The applicant apprehends his arrest in connection with Crime no.I-957 of 2015 registered at Kranti Chowk Police Station, Dist. Aurangabad for the offences punishable under Section 394 r/w. 34 of the Indian Penal Code.

3. As per the First Information Report filed on 01/11/2015 at about 5:00 pm, when the complainant had gone near a fish market, he consumed one bottle of liquor and came out of the country liquor shop, three persons including present applicant asked him to give money for having liquor. As the complainant refused to do so, the applicant and one another abused him while the third person assaulted him with a fighter. It is stated that due to said attack, he fell down and lost his consciousness. All the three persons including the applicant removed an amount of Rs.2000/- from his pocket. On that basis, offence came to be registered.

4. It is submitted on behalf of the applicant by learned counsel that the FIR contains an improbable story, as the informant himself was under the influence of liquor and he had stated to have lost his consciousness after the assault. He submitted that present applicant is not alleged to have assaulted the complainant. He further submitted that while considering the application of another accused filed under Section 438 of the Code of Criminal Procedure, this Court, in Criminal Application No.369 of 2016, vide

order dated 2nd February, 2016, allowed the same by observing that report as lodged, appears to be improbable.

5. The Application is opposed by learned Additional Public Prosecutor. It is submitted that considering the injuries suffered and the fact that an amount of Rs.2000/- was removed from the pocket of the complainant, no protection deserves to be granted.

6. Perused the FIR as well as the order dated 2nd February, 2016 passed in Criminal Application No.369 of 2016. Considering the observations made in paragraph no.2 of said order, and the fact that the present applicant is alleged to have only abused the complainant, I am inclined to follow the aforesaid order and grant protection to the applicant.

7. Hence, the following order:-

ORDER

I) Criminal Application is allowed.

II) In the event of arrest of the applicant in connection with Crime no.I-957 of 2015 registered at Kranti Chowk Police Station, Dist. Aurangabad for the offences punishable under Section 394 r/w. 34 of the Indian Penal Code, he be released on bail, on furnishing P.R. bond of Rs.15,000/- (Rs. Fifteen Thousand) with one surety in the like amount.

III) The applicant shall attend the concerned Police Station as and when directed by the Investigating Officer.

IV) The applicant shall not take any steps to influence the prosecution witness.

8. Observations made in this order are only for deciding the present Application.

9. Criminal Application is accordingly allowed and disposed of.

[A.S. CHANDURKAR]
JUDGE

arp/