

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

CRIMINAL APPLICATION (ABA) NO.261 OF 2016

(Abhay s/o Ramesh Bhagwat ..vs.. State of Maharashtra, through PSO, PS Bhandara)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.
DATED : 22-04-2016

Heard Shri A.S. Mardikar, learned Senior Advocate assisted by Shri Sarang Kotwal, Advocate for the applicant and Shri N.B. Jawade, learned Additional Public Prosecutor for the non-applicant.

2. The learned Additional Public Prosecutor seeks time to file reply. He opposes the application on the ground that there is material against the applicant which shows the involvement of the applicant in the crime. The application filed by the applicant seeking pre-arrest bail is pending before the Sessions Court, therefore, it will not be appropriate for this Court to delve into the merits of the matter and the submissions made on behalf of the non-applicant.

3. The applicant has approached this Court with limited prayer that the Sessions Court has not granted interim protection during the pendency of the application filed by him under Section 438 of the Code of Criminal Procedure. The learned Senior Advocate has

submitted that the reasons given by the learned Additional Sessions Judge for not granting protection are not proper and the applicant should not have been denied interim protection because of failure on the part of the non-applicant to produce the case diary.

Considering the circumstances, in my view, the applicant is entitled for interim protection till the application filed by the applicant under Section 438 of the Code of Criminal Procedure is decided by the Sessions Court.

4. Hence, the following order :

- i) It is directed that till the application filed by the applicant under Section 438 of the Code of Criminal Procedure is decided by the Sessions Court, the non-applicant shall not take any coercive action against the applicant and shall not arrest the applicant.
- ii) The learned Additional Sessions Judge shall decide the application filed by the applicant on merits according to law.
- iii) The application is disposed accordingly.

JUDGE