

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

CRIMINAL APPLICATION (ABA) NO.742 OF 2016

Amol Sahare, Near Lalita Kala Bhavan, PS Jaripatka, Nagpur.

-vs-

State of Maharashtra, Thr. PSO, Jaripatka, Nagpur.

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

Court's or Judge's Orders.

Shri A. S. Kesari, Advocate for applicant.

Shri N. B. Jawade, Addl.PP for non-applicant/State.

CORAM : P. N. DESHMUKH, J.

DATE : December 14, 2016

By this application one of the accused involved in Crime No.595/2016 registered for offences punishable under Sections 307 read with Section 34 of the Indian Penal Code has sought bail before arrest.

Learned counsel for applicant has submitted that even if the case of prosecution as reveals from the report is accepted, no role is attributed to applicant to attract provisions of Section 307 of IPC and has thus prayed that interim protection granted to applicant needs to be confirmed by imposing suitable conditions on applicant.

Learned Addl. Public Prosecutor opposed the application on the ground that there is direct evidence against the applicant and his custodial interrogation is necessary as his name is revealed in report lodged by eye witness as well as one Shubham. He further contended that except in statements of these two persons, there are

no statements involving applicant.

Perusal of report dated 12/10/2016 lodged by Nitin Gourinakke reveals about incident which took place prior to the incident wherein co-accused Kunal was found beating one Akash. When Abhishek tried to intervene, Kunal threatened him of dire consequences. Thus, Nitin found it proper to keep Akash in his company. On the next day when both of them were proceeding through Lal-Godown on motorcycle at about 4 pm, they were intercepted by the applicant and other co-accused. From the report, it is further revealed that complainant was initially manhandled by co-accused. Applicant caught hold of hands of Abhishek and co-accused Kunal committed assault by knife on his stomach. However as Abhishek escaped the same, the blow struck on his ear and head. From the report thus, involvement of applicant is found only by way of his catching hand of injured.

In the statement of Shubham which is heavily relied upon by the prosecution, role attributed to applicant is similar to that of his role in the report. Even otherwise said statement though relied by prosecution is that of eye witness, is recorded on 17/10/2016 of a incident which occurred on 12/10/2016. Moreover injuries found to be sustained by injured Abhishek have been certified to be of minor in nature.

Considering aforesaid involvement of applicant as aforesaid, interim protection granted to applicant is liable to be confirmed as per order below :

Interim protection granted to applicant by order dated 08/11/2016 stands confirmed on same terms and condition. It is further directed to applicant to attend the Investigating Officer and and when called till filing of charge-sheet.

Application stands disposed of as aforesaid.

JUDGE