

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

CRI. APPLICATION (ABA) NO. 2 OF 2017

(SANJAY NANDLAL BHOYAT..VS.. STATE OF MAH. THR. P.S.O. PS YAVATMAL CITY)

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

Court's or Judge's orders

Shri M.N.Ali, Advocate for applicant.
Shri V.A.Thakare, A.P.P. for Non-applicant.

CORAM : Z.A.HAQ, J.

DATED : JUNE 12, 2017.

Heard.

The applicant has sought pre-arrest bail apprehending arrest in crime registered against him for the offences punishable under Sections 307, 143, 147, 148, 149, 452, 294 of the Indian Penal Code and Section 4/25 of the Arms Act. The crime is registered on the complaint dated 29th April, 2014 regarding the incident which took place on that date. The accusations against the applicant and co-accused (family members of the applicant) are that they have assaulted the complainant and her family members by sticks, sword, rod and bricks. The applicant and the complainant are neighbours. A report is also lodged against the complainant and her family members. The applicant has sustained grievous injuries.

The application is opposed by the Investigating Agency on the ground that custodial interrogation of the applicant is required and he has not co-operated with the investigation and is not traceable. Therefore, chargesheet is filed showing that the applicant is absconding.

In the order passed by the learned Additional Sessions Judge rejecting Criminal Bail Application No. 283 of 2016 filed by the applicant, it is recorded that earlier also the applicant had filed Criminal Application No.197 of 2014, Criminal Application No. 122 of 2015 which were rejected. The learned Additional Public Prosecutor has also pointed out that Criminal Application No. 263 of 2015 filed by the applicant and other co-accused is disposed by this Court by order passed on 29th July, 2015 and pre-arrest bail was granted to four co-accused, however, application of the present applicant came to be rejected. The learned advocate for the applicant has submitted that the above order was passed before filing of the chargesheet.

In the present application, this Court has granted interim protection to the applicant by order passed on 30th December, 2016. Except for the general statement that the applicant is absconding and has not co-operated with the investigation, the Investigating Agency has not pointed out the steps taken by it in the matter. The facts on record show complete insensitivity of the Investigating Officer in dealing with the matter.

Considering the facts of the case, accepting the statement made by the applicant that he is not involved in any other crime/ offence and as the non-applicant has not been able to point out that custodial interrogation of the applicant is required, in my view, the protection granted by the order passed by this Court on 30th December, 2016 is required to be confirmed.

Hence, the following order:

The order passed on 30th December, 2016, granting pre-arrest bail to the applicant, is confirmed.

The applicant shall attend the concerned Police Station on call of the Investigating Agency. The applicant shall make his cell-phone number available to the Investigating Agency within one week.

The applicant shall regularly attend the sessions trial on every date unless granted exemption by the Sessions Court.

The Superintendent of Police, Yavatmal shall cause enquiry about the laxity shown in the investigation of crime/ offence and submit report before this Court within six weeks.

The application is **allowed** in the above terms.

JUDGE