

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

CRIMINAL APPLICATION (ABA) NO.26 OF 2017
(Manoj s/o Suraj Pawar vs. State of Maharashtra)

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

Shri O.K. Masurke, Advocate for applicant.
Shri A.V. Palshikar, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : JANUARY 27, 2017

Shri Palshikar, learned Additional Public
Prosecutor for respondent, has filed affidavit-in-reply
and supplied copy thereof to Shri Masurke, learned
Counsel for applicant.

Heard learned Counsel for both sides.

One of the accused involved in Crime
No.874/2016 registered under Sections 384, 352, 452,
324, 294, 506-B and 143 of the Indian Penal Code has
sought bail before arrest.

Shri Masurke, learned Counsel for applicant,
has contended that though incidents dated 15/12/2016
and 16/12/2016 are stated to have taken place, there is
no role attributed to applicant in the incident dated
15/12/2016 and the only involvement of applicant in the
incident on the following day is general, i.e. of his
assaulting to one Kumarswamy Dasarap along with other
accused persons. It is submitted that as there is no overt
act attributed to applicant, application be allowed by

imposing suitable conditions upon him.

Shri Palshikar, learned Additional Public Prosecutor for respondent, has opposed the application on the ground that there is direct involvement of applicant established from the report itself as assailant of complainant Abdul Khan. It is contended that applicant has also extended threat to complainant not to lodge report with Police or he would be assaulted by sword. It is, therefore, submitted that application be rejected.

Perused the case diary. It appears to be the case of prosecution that incident occurred on 15/12/2016 in the night at 10 o'clock where co-accused, by extending threat to complainant, extorted amount of Rs.500/- from him. There is no involvement of applicant in that incident. Co-accused Bunty is admittedly stated to be on bail granted by learned trial Court.

With regard to incident dated 16/12/2016, again involvement in the assault upon complainant is of Suraj Bahuriya and Kikka after arriving at the pan shop when Suraj Bahuriya committed assault on Kumarswamy Dasarap by some iron container. According to report, this incident took place in the presence of Laluji Sidikki and Kumarswamy Dasarap. However, according to learned Additional Public Prosecutor, statement of Laluji Sidikki is not recorded while according to statement of Kumarswamy Dasarap, he has not implicated applicant.

From the report it is found that involvement of applicant is vaguely stated about his committing assault along with co-accused Vinod, who is stated to be on bail and two others. No overt act is attributed to

applicant nor any weapon is attributed to him nor there is reference of assault by applicant on any particular vital part of the body. Complainant's injury report establishes that he has sustained one injury in the nature of swelling with tenderness on the left ear while Kumarswamy Dasarap is certified to have sustained similar injuries on his knee, elbow and side of neck, which are stated to be simple in nature.

Having considered injuries sustained by complainant as well as Kumarswamy Dasarap, who has admittedly not implicated applicant and as no overt act is attributed to applicant in the report, following order is passed :

In the event of arrest of applicant in Crime No.874/2016, he shall be released on bail on his executing a P.R. Bond in the sum of Rs.20,000/- with one surety in like amount. Applicant shall attend Investigating Officer at Police Station, Ballarpur, District Chandrapur for a period of one week from 10 a.m. to 5 p.m. from 28/1/2017 and thereafter as and when called by Investigating Officer till filing of the charge-sheet. The criminal application is accordingly allowed.

JUDGE

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