

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

CRI. APPLICATION (ABA) NO. 87 OF 2017

(SHAHNAWAZ HABIB PATEL SHEIKH...VS.. STATE OF MAH. THR. P.S.O. GHUGGUS, DIST.
CHANDRAPUR)

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

Court's or Judge's orders

Shri R.M.Tahaliyani, Advocate for Applicant.
Shri M.J.Khan, A.P.P. for Non-applicant.

CORAM : Z.A.HAQ, J.

DATED : JUNE 16, 2017.

Heard.

The applicant, apprehending arrest in crime registered against him and others for the offences punishable under Sections 304, 342, 451, 506, 509 read with Section 34 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has sought pre-arrest bail. The crime is registered against the accused on the accusations that because of vandalism of the accused and as they latched the door of the house of the complainant, the wife of the complainant became seriously ill, complained of pain in her chest and subsequently died. According to the complainant, the accused were knowing that the wife of the complainant was suffering from diabetes and blood pressure. According to the complainant, the accused abused the complainant and his family members knowing that the complainant and his family members belong to scheduled caste.

The application is opposed mainly on the ground that the prayer for pre-arrest bail cannot be granted in view of the bar of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It is further submitted that sufficient material is available against the accused which shows involvement of the accused in the crime.

After examining the accusations against the applicant, I am of the *prima-facie* view that the offence punishable under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not made out and the prosecution will have to establish the accusations at the trial.

The learned advocate for the applicant has stated that the charge-sheet is filed.

This Court has granted interim protection by the order dated 17th February, 2017. The Investigating Agency has not made any complaint that the applicant has misused the protection granted by this Court.

The learned Additional Public Prosecutor has submitted that considering the nature of accusations against the applicant and as he is residing in the vicinity it would not be appropriate to grant pre-arrest bail.

I find some substance in the submission made by the learned Additional Public Prosecutor and therefore, in my view, some stringent conditions will have to be imposed while confirming the protection granted by this Court by the order passed on 17th February, 2017.

Hence, the following order :

The protection granted to the applicant by the order passed on 17th February, 2017 is confirmed.

The applicant shall not enter village Ghuggus till conclusion of the trial.

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

CRI.APPLN.(APPP) NO. 254/2017.

In view of disposal of the bail application, the application praying for time to file certified copy of order does not survive, hence, it is **disposed of**.

JUDGE

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