

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

CRIMINAL APPLICATION (ABA) NO.400/2017

Abdul Shoeb Abdul Rashid

..Vs..

State of Maharashtra, through PSO Nagpurigate, Distt. Amravati

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

Court's or Judge's orders

Shri P.V. Navlani, Adv. for the applicant.
Shri N.R. Patil, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 13.6.2017.

Heard.

The applicant, apprehending arrest in crime registered against him for offence punishable under Sections 294, 332 and 353 of the Indian Penal Code seeks pre-arrest bail. The crime is registered against the applicant on the report lodged by Santosh Sapate, A.P.I. posted at Nagpurigate, Amravati on 7th May, 2017 at 2 a.m. to the effect that while performing duty at midnight the complainant and police Constable Gajanan who accompanied the complainant were assaulted by the applicant.

The application is opposed on the ground that the nature of accusations against the applicant are serious and he is a habitual offender and he is involved in 5 other crimes.

The learned Advocate for the applicant has submitted that the applicant is acquitted in 2 cases i.e. crime No.89/2010 and 46/2011.

I am conscious that in a case with the accusations as made against the applicant and considering the fact that the applicant had been involved in other crimes earlier, the prayer for grant of pre-arrest bail should be considered with due care and caution. It is undisputed that the applicant has lodged the complaint against Sanotsh Sapate (complainant) and Gajanan (Police Constable) alleging that when the applicant was returning after attending the marriage, the complainant and Gajanan (Police Constable) abused the applicant and when the applicant objected to it, the complainant and Gajanan (Police Constable) came out of the jeep in which they were sitting and assaulted the applicant because of which he was required to be hospitalized. In the complaint, the applicant has alleged that the complainant was under influence of alcohol. The copy of reply filed by the investigating agency before the Sessions Court is placed on record at page No.20. In this reply there is nothing to show that investigation or at least some enquiry is conducted on the complaint made by the applicant.

The applicant has placed on record copy of medical certificate issued by Government hospital which shows details of injuries on the person of the applicant.

Considering the facts of the case, I am of the view that the applicant is entitled for pre-arrest bail.

In the event of arrest in Crime No.117/2017 registered by the non-applicant, the applicant be released on bail on furnishing P.R. bond for Rs.20,000/- (Rs. Twenty Thousand) and one solvent surety in the like amount.

The Commissioner of Police, Amravati City shall cause investigation / enquiry as deemed fit by him on the complaint (the copy of which is placed on record at page No.37 alongwith this application) lodged by the applicant with the police station Nagpurigate, Amravati on 18th May, 2017.

Shri N.R. Patil shall intimate this order to the Commissioner of Police, Amravati City.

Action taken report shall be filed on record of this application before this Court within four weeks.

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

JUDGE