

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

**CRI. APPLICATION (ABA) NO. 473 OF 2017**

(SAURABH NANDKISHORE MANE...VS.. STATE OF MAH. THR. P.S.O. TUMSAR, DIST. BHANDARA)

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

Shri S.P. Gadling, Advocate for Applicant.  
Shri S.P.Deshpande, A.P.P. for Non-applicant.

**CORAM : Z.A.HAQ, J.**

**DATED : JULY 04, 2017.**

Heard.

The applicant seeks pre-arrest bail, apprehending arrest in connection with the crime registered against him and seven others for the offences punishable under Sections 302, 307, 147, 148, 149 of the Indian Penal Code and Section 3/25 and 4/25 of the Arms Act and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

According to the Investigating Agency, the applicant had made a call to co-accused Santosh Dahat and informed him that Hemant Ukey (deceased) and Amit @ Babu Banerjee (complainant) were present in the Gym and then Santosh Dahat and other accused came there and Santosh Dahat shot Hemant Ukey.

According to the Investigating Agency, the fact that the present applicant had given information to co-accused Santosh is corroborated by the Call Data Record (CDR).

The learned advocate for the applicant has submitted that apart from the fact that the name of the applicant is not reflected in the first information report, the submission made on behalf of the non-applicant that the CDR supports the accusations against the applicant cannot be relied upon at this stage, as only because the applicant had made a phone call to co-accused Santosh Dahat it does not mean that the applicant is one of the conspirator. The case of the Investigating Agency is based on circumstantial evidence.

The application is opposed on the ground that the prayer under Section 438 of the Code of Criminal Procedure cannot be granted in view of the bar created by Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

On examining the first information report, I find that the ingredients to *prima-facie* constitute an offence punishable under Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are not made out and the prosecution will have to prove its case at the trial.

The applicant, aged about 21 years, claims to be working as Technician and has stated that he is not involved in any other crime/ offence. The charge-sheet is filed on 24<sup>th</sup> April, 2017. The non-applicant has not been able to show that custody of the applicant is required for further investigation.

In the facts of the case, following order is passed:

In the event of arrest in connection with Crime No. 43/2017, registered by the non-applicant, the applicant be released on bail on executing P.R. Bond for Rs.Twenty Five Thousand and furnishing two solvent sureties in the like amount.

The applicant shall regularly attend the trial before the Sessions Court unless granted exemption by the Sessions Court.

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

**CRI.APPLN.(APPP) NO.1082/2017.**

In view of disposal of the bail application, the application praying for dispensing with certified copy of order etc. does not survive, hence, it is **disposed of**.

**JUDGE**

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