

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

CRIMINAL APPLICATION (ABA) NO.618 OF 2016

(Babloo Qureshi @ Mohammad Sajid Ibrahim s/o Iqbal Ahmad Qureshi vs. The 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 U.P. Dable, Advocate for applicant.

Shri V.P. Gangane, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : JANUARY 23, 2017

This application is filed for anticipatory bail by one of the accused involved in Crime No.182/2016 registered under Section 307 read with Section 34 of Indian Penal Code.

Heard learned Counsel for both sides.

Shri Dable, learned Counsel for applicant, has submitted that according to the report lodged by injured Sheikh Salim immediately after the incident, only role attributed to applicant is of instigating co-accused by saying "Maro Isko" and nothing more. It is contended that no overt act is attributed to applicant as according to report, assault is committed on complainant by co-accused Sameer Kawwa while he was caught hold by co-accused Jaffar and Mujjabil. Referring to the documents filed along with charge-sheet, it is pointed out that accused Jaffar and Mujjabil are released on bail by learned trial Court. In the circumstances, it is prayed that interim protection granted to applicant be

confirmed.

Shri Gangane, learned Additional Public Prosecutor for respondent, has opposed the application as per reply filed on record and by referring to injury report contended that since complainant has sustained fractures of tibia, fibula as well as of spine, application is liable to be rejected as involvement of applicant has been established by complainant.

In the light of aforesaid facts and from reply, it is found that incident took place on 4/9/2016 during night, of which report is lodged on 5/9/2016 wherein it is alleged that while complainant was proceeding to his house and reached near Kalmna "T" point on Nagpur-Jabalpur Highway, applicant along with co-accused Sameer Kawwa, Jaffar and Mujjabil arrived in one car when applicant said "Maro Isko", upon which co-accused Jaffar and Mujjabil caught hold of complainant and Sameer Kawwa assaulted on his legs by crowbar, due to which he sustained grievous injuries. It is the case of prosecution that said assault was outcome of threat given by co-accused Sameer Kawwa to complainant not to file appeal against acquittal in the murder case of his brother where Sameer Kawwa was acquitted.

Having considered facts as aforesaid and as role attributed to applicant is only of instigation by saying "Maro Isko" and also having considered the fact that co-accused Jaffar and Mujjabil, who are attributed role of their participation in the assault by catching complainant, who was then assaulted by Sameer Kawwa, are released on bail by learned trial Court, application is

liable to be allowed as per order below :

Interim protection granted to applicant by order dated 22/9/2016 stands confirmed. Applicant is directed to mark his presence with Police Station, Old Kamptee, District Nagpur on first day of each month between 10 a.m. and 12 noon pending trial. Applicant shall furnish proof of his residence to Investigating Officer and shall update the same in the event of any change therein.

The criminal application is allowed in the aforesaid terms.

CRIMINAL APPLICATION NO.1301/2016

In view of aforesaid order, this criminal application has become infructuous and same is disposed of as such.

JUDGE

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