

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [ABA] No. 699 of 2017
[Atul Rooprao Shirbhate Vs. State of Mah., PS. Guittikhadan,
Nagpur]

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

Court's or Judge's orders

Mr. C. R. Thakur, Adv., for the Applicant.
Mr. R. S. Nayak, Addl. Public Prosecutor for the respondent-State.

CORAM : A. S. CHANDURKAR, J.

DATE : 04th October, 2017

The applicant apprehends his arrest in connection with Crime No. 451 of 2015 registered at Gittikhadan Police Station, Nagpur, for offences under Sections 143, 147, 149, 427, 323, 506 (b), 504 and 279 of Indian Penal Code, Section 3 (1) (x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and Section 3 (1) of the Maharashtra Control of Organized Crime Act, 1999 [for short, "the said Act"].

As per the First Information report dated 22nd September, 2015, a group of about ten to twelve persons is alleged to have assaulted the complainant and abused him in the name of his caste. On the basis of this crime, the applicant apprehends his arrest.

It is submitted on behalf of the applicant that in

respect of other accused from the same crime, this Court on 24th August, 2017 has prima facie observed that the offence under provisions of Section 3 of the Act of 1999 were not attracted. It is, therefore, submitted that as applicant's name is not mentioned in the First Information Report, he has been falsely implicated.

In the reply filed on behalf of the State, an objection is raised that the application is not maintainable in view of provisions of Section 21 (3) of the said Act. It is, however, not disputed that the co-accused who was also not named in the aforesaid crime, has been granted protection by this Court.

Perused the First Information report as well as the order in Criminal Application No. 580/2017.

I find that the present applicant is entitled for parity in the facts of aforesaid case. In view of aforesaid, the following order is passed:-

ORDER

[a] In the event of arrest of the applicant - Atul Rooprao Shirbhate in Crime No. 451/15 registered with Gittikhandan Police Station, Nagpur, for the offences punishable under Sections 143, 147, 149, 427, 323, 506 (b),

504, 279 of the Indian Penal code, Section 3 (1) (x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and Section 3 (1) of the Maharashtra Control of Organized Crime Act, 1999, he be released on bail on executing a Personal Bond in the sum of Rs.25,000/- [rupees twenty five thousand only] with one solvent surety in the like amount.

- [b]** The applicant shall not prejudice the prosecution case in order to exert influence over any prosecution witnesses.
- [c]** The applicant shall attend scrupulously each and every date of the case which is allotted on the file of learned Special Judge, Nagpur.

The application is allowed and disposed of in aforesaid terms.

Judge