

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.750 OF 2017

MURLIDHAR S/O VISHNU ADWANI
VS
STATE OF MAHARASHTRA

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

Court's or Judge's Orders.

Shri Shashibhushan Wahane, Advocate for applicant.
Shri J. Y. Ghurde, APP for the non-applicant.

CORAM : A.S.CHANDURKAR, J.
DATE : November 06, 2017

The applicant apprehends his arrest in connection with Crime No.265/2017 registered by Police Station Kuhi, Tah. Kuhi, District Nagpur for the offences punishable under Sections 307, 323, 504 read with Section 34 of the Indian Penal Code and under Section 135 of the Bombay Police Act.

As per the first information report dated 16-10-2017, the informant has stated that on the previous day he had been to the Bar owned by the mother of the applicant. On said evening the informant along with his friends consumed liquor. Initially payment of Rs.220/- was made. On consuming further liquor bill of Rs.360/- was tendered to the informant. According to the informant, they requested that same may be kept in credit and proceeded to leave the place. At that point of time, the applicant and his father caught hold of the informant and started assaulting him. The applicant's father stated that such acts of seeking credit were being done regularly by the informant and hence told his son to finish the

informant with a revolver. It is stated that the applicant removed the revolver and put it on the chest of the informant. The informant caught hold of the applicant's hand due to which the bullet was fired in the air. The informant's friend intervened and as the hand of the applicant was caught hold, another bullet was fired in the air. On this basis, the aforesaid report came to be lodged.

It is submitted on behalf of the applicant that a false case has been lodged against him. Pursuant to the ad-interim protection granted on 24-10-2017, the applicant has cooperated with the Investigating Officer and his clothes have been duly seized. It is submitted that there is no reason whatsoever for seeking custodial interrogation of the applicant as the entire investigation is almost completed and the revolver in question is with the Investigation Officer. There is no reason whatsoever to deny protection to the applicant. Further directions can be issued to him to cooperate with the investigation for which the applicant is ready.

The application is opposed by the learned Additional Public Prosecutor by relying upon the reply. It is stated that the statements of the witnesses as recorded indicate the active role played by the applicant in firing at the informant and his friend. Considering the gravity of the offence and the fact that the investigation is not yet complete, no discretion deserves to be exercised in favour of the applicant.

Perused the first information report as well as the statement of the informant as well witnesses. These statements describe the manner in which the applicant sought

to fire upon two persons during the scuffle. They have stated that the because of their timely action they could avoid bullet injuries. Yes another statement recorded is of an employee of the Bar of the applicant's mother and said statement also corroborates the statement of the informant and his friend.

Considering the seriousness of the offence in which two gun shots have been fired, I am not inclined to exercise discretion in favour of the applicant.

Though it is true that the applicant has upto now cooperated with the investigation that by itself cannot be a sole factor for continuing the protection in an offence of the present nature.

By clarifying that observations made in this order are only for deciding the application for anticipatory bail, the same stands rejected. In the facts of the case, I am not inclined to continue the protection granted to the applicant earlier.

Authenticated copy of this order be supplied to the learned Counsel for the applicant as per rules.

JUDGE