

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

CRIMINAL APPLICATION (ABA) NO.277/2018

(Omprakash s/o Surendrakumar Pandey Vs. State of Maharashtra, through P.S.O.
P.S.Umred, Dist. Nagpur)

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

Court's or Judge's orders.

Shri Yogesh Shukla, Advocate for applicant.
Shri P.S.Tembhare, APP for non-applicant/State.

CORAM : S. B. SHUKRE, J.

DATE : APRIL 27, 2018

Heard Shri Shukla, learned counsel for the applicant and Shri Tembhare, learned APP for the State. Perused the reply of the prosecution which has been taken on record. I have also gone through the case diary.

It is the submission of the learned counsel for the applicant that all the offences which are registered against this applicant in this case are bailable except for the offence punishable under Section 452 of IPC. According to him, this offence requires some prior "preparation" made for assault or hurt and this is not the case wherein any witness is saying that this applicant was present at the scene of crime with such preparation.

Learned APP invites my attention to the statement of the witnesses including the informant, all of whom have been stating as to how this applicant and in what manner this applicant illegally entered into the house

of the informant, hurled abuses, pulled wife of the informant and also pulled her “odhani” (bosom cloth) and then subjected her to beating. It is also alleged that this applicant and all other persons tried to break the door of the house of the informant. It is further alleged that this applicant threatened the inmates of the house to kill them by using revolver.

In view of the submissions made by learned APP and on going through the statements of witnesses, I am of the view that if the specific allegations made against this applicant do not make out the case of prior preparation on his part, then what more would be required to establish the same in a prima facie manner. The argument of learned counsel for the applicant not only goes against the specific provisions of law, but also defuses the logic. It is rejected accordingly.

In view of the above, I am of the view that the offence punishable under Section 452 of IPC is prima facie made out and the manner in which this offence has committed would indicate that there is possibility of this applicant threatening the witnesses or misusing the liberty. This being so and in the facts and circumstances of this case, I am of the further view that this applicant is not entitled to be released on anticipatory bail. The application stands rejected.

After this order has been passed, the learned counsel for the applicant has once again made a submission that that some wrong interpretation of the FIR has been made in this order. However, with due respect, I must say that the learned counsel has been reading the FIR

something which has not drawn and has been completely ignoring relevant material which is specifically stated in the FIR. Not only this, learned counsel for the applicant has confidence in showing even the witness alleges anything as if, at the stage of investigation, the applicant is having an access to the case diary, which is not permissible under the law. But, the fact is different. The statement of the witnesses also completely corroborated with the version of the informant. The approach of the learned counsel for the applicant is not appreciated. It also shows that this would place inference that this applicant is trying to interfere with the investigation, if he is granted anticipatory bail. So the conclusion drawn earlier, according to me, deserves to be confirmed.

JUDGE

Andurkar.