

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

CRIMINAL APPLICATION (ABA) NO.934/2017

Sagar s/o Satyaprakash Yadav

..vs..

State of Mah., thr. PSO Dhantoli, Nagpur

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

Court's or Judge's Order

Shri A.M. Jaltare, Counsel for the applicant.

Shri N.B. Jawade, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 11, 2018.

1. Heard learned counsel Shri A.M. Jaltare for the applicant and learned Additional Public Prosecutor Shri N.B. Jawade for the State.

2. The applicant, who is apprehending his arrest in connection with Crime No.227 of 2017 registered with Police Station Dhantoli, Nagpur for the offences punishable under Sections 141, 143, 147, 148, 149, 323, 324, 506, and 307 of the Indian Penal Code read with Sections 4 and 25 of the Arms Act and Section 135 of the Bombay Police Act, is before this Court.

3. According to learned counsel Shri A.M. Jaltare for the applicant, in the first information report there is no role attributed to the applicant that he has assaulted either on the first informant or any other injured by means of sword.

4. It is to be noted that prior to filing of the first information report in question, firstly another first information report was lodged from the side of the applicant against the present complainant, her husband, and her son.

5. Learned Additional Public Prosecutor Shri N.B. Jawade for the State submits that though there is no statement about overt act of the applicant in the first information report, the first informant, who is a Corporator, in her supplementary statement has attributed a role to the applicant that he has assaulted by means of pipe on her son Karan. The date of incident is 21.10.2017. Whereas, the first information report in question is filed on 22.10.2017 and the supplementary statement of the first informant is recorded on 3.11.2017.

6. Thus, for the first time the name of the applicant is appeared on 3.11.2017 through the first informant, insofar as the role of making assault on 3.11.2017.

7. No doubt true that it is always open for the prosecution to give explanation about recording the statement at belated stage. However, looking to the nature that two groups are fighting with each other, embellishment at the hands of the first informant cannot be completely ruled out.

8. Learned Additional Public Prosecutor Shri N.B. Jawade for the State also submitted that the statement of Karan is recorded on 23.10.2017 and he has attributed the role against

the applicant.

9. From the injury certificate, learned Additional Public Prosecutor Shri N.B. Jawade for the State submits that injury suffered by Karan was only simple in nature.

10. In that view of the matter, the applicant *prima facie* cannot be held responsible for the offence punishable under Section 307 of the Indian Penal Code.

11. This Court on 26.12.2017 granted *ad interim* anticipatory bail in favour of the applicant on the conditions that the applicant shall attend the police station on 30.12.2017 and on 31.12.2017. Accordingly, the applicant has attended the police station, is the statement made by learned counsel Shri A.M. Jaltare for the applicant, which is not controverted by learned Additional Public Prosecutor Shri N.B. Jawade for the State.

12. Looking to the nature of accusations made against the applicant in the first information report and the other material, in my view, the applicant, who is in his tender age, needs to be granted anticipatory bail.

13. Consequently, I pass the following order:

ORDER

(a) The criminal application is allowed.

(b) Applicant Sagar s/o Satyaprakash Yadav, in

the event of his arrest in connection with Crime No.227 of 2017 registered with Police Station Dhantoli, Nagpur for the offences punishable under Sections 141, 143, 147, 148, 149, 323, 324, 506, and 307 of the Indian Penal Code read with Sections 4 and 25 of the Arms Act and Section 135 of the Bombay Police Act, the applicant be released on bail on he executing a P.R. Bond in the sum of Rs.25,000/- with two solvent sureties of the like amount.

(c) It is made clear that the observations made in this order are purely for deciding the present application for bail only and learned Judge of the Court below, who shall be trying the case, shall not get influenced by the observations made in this order.

(d) With this, the criminal application is allowed and disposed of.

JUDGE

!! BRW !!

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