

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

Criminal Application (ABA) No. 275 of 2019

Badal Shivcharanji Sahu

Vs.

State of Maharashtra through P.S.O. Wardha City

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

Court's or Judge's orders

Mr. S.W. Sambre, Advocate for applicant
Mr. H.R. Dhumale, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JUNE 07, 2019

Heard learned counsel for the applicant. In this case the applicant along with two others is an accused and FIR dated 17/04/2019, has been registered against him for the offences punishable under Section 307, 504 R/w 34 of the Indian Penal Code. The other two accused are the sons of present applicant.

2. It is the case of the complainant / victim in the present case that he was assaulted by means of knife by the other two accused in the present application, who had allegedly held the victim while the assault was committed. The applicant contends that he was found present at the place of incident and he has been implicated.

3. Non-applicant / State has filed reply stating that specific role has been attributed to the applicant of holding the victim while the other two accused were assaulting him. There is a reference to CCTV footage from the house of one Pradip Talmale regarding which certificate under Section 65(B) of the Indian Evidence Act has been obtained.

4. It is categorically stated on behalf of the applicant that in the CCTV footage presence of applicant is not made out. This is not specifically denied on behalf of the non-applicant / State. From the material on record it appears that *prima facie* the presence of the applicant at the time of incident needs to be supported with further material on record. It is also evident from a perusal of FIR that while the incident took place on 16/04/2019 at about 3.30 p.m., the FIR was registered on the next day on 17/04/2019 at about 2.51 p.m. This could also be a relevant factor in the present case.

5. It is contended on behalf of the non-applicant / State that if protection is granted to the applicant herein, there is possibility of the applicant threatening or influencing the victim and other witnesses. A perusal of report shows that while the victim is resident of Kanjar Mohalla, Wardha. The applicant resides at Malgujaripura, Wardha. In order to address the apprehension expressed on behalf of non-applicant / State, appropriate condition can be imposed while granting relief to the applicant in the present case.

6. In view of above, the present application is allowed.

7. In the event the applicant is arrested in Crime No.510/2019, registered in Police Station Wardha City Dist. Wardha, he shall be released on bail on furnishing PR bond of Rs.50,000/- (Rs. Fifty Thousand) and surety of like amount on the further condition that the applicant shall not enter Kanjar Mohalla, Wardha and he will not tamper with the evidence or influence witnesses in any manner. The applicant shall report to Police Station Wardha City, Dist. Wardha once in a week i.e. on Sunday between 10.00 a.m. to 5.00 p.m.

8. The application is allowed in above terms.

JUDGE

MP Deshpande