

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR.****CRIMINAL APPLICATION (ABA) NO. 703 OF 2019**

Shrawan s/o Chhatrapati Wankhade .Vs. State of Maharashtra,through
P.S.O, P.S. Arvi, Dist. Wardha.

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

Court's or Judge's orders.

Mr. M.V. Rai, Advocate for applicant.

Mr. V.A. Thakare, A.P.P. for non applicant- State.

CORAM : V. M. DESHPANDE, J.

DATED : NOVEMBER 08, 2019

This is an application for anticipatory bail.

The applicant is apprehending his arrest in connection with Crime No.712/2019 registered with Police Station, Arvi, Tq. Arvi, Dist. Wardha for an offence punishable under Sections 307, 143, 144, 147, 148, 149, 323 and 324 of the Indian Penal Code.

Heard Mr. Rai, learned counsel for the applicant and Mr. Thakare, learned Additional Public Prosecutor for the non applicant-State. Also perused the reply filed on behalf of the State. The learned Additional Public Prosecutor, in view of the order dated 15.10.2019, also placed before me the investigation papers of not only Crime No.712/2019 in which the applicant claiming anticipatory bail but also the investigation papers of Crime No. 713/2019 in which the first informant in Crime No.712/2019 is accused along with others.

It is an admitted position on record that the family of the present applicant and the family of Anil Pawar, are residing on Government land and it is a slum area. From

the investigation papers and from the reply it is also clear that family of the present applicant and the family of injured Anil are at loggerheads in view of the dispute about encroachment by each other resulting into lodging of cross first information reports against each others in the past.

The incident in question has occurred on 18.09.2019. On this day, two counter first information reports are lodged by the complainant party and by accused party against each others. However, incident in both these crimes is one and the same. From the investigation papers of both the crimes it is clear that the incident has occurred in front of the house of the present applicant. The spot of the incident is front portion of the applicant's house.

From the investigation papers of both the crimes, it is clear that in Crime No.712/2019, Anil Pawar, Prajwala Pawar, Vishal Pawar, Sheikh Babbu and Anita Pawar were injured whereas from Crime No.713/2019 Kajal, Maheshswari and Aruna were injured. The injured in Crime No.713/2019 are sisters and mother of the present applicant respectively. Crime No.713/2019 is registered on the basis of report lodged by Aruna, the mother of the present applicant. Crime No.712/2019 is registered on the basis of the statement of Anil, recorded by investigating officer in Civil Hospital at Arvi. Similarly, during the course of the investigation, Anil's statement is recorded on 27.09.2019. So also the statements of other injured persons are also recorded. Incidentally, the statements of injured in Crime No.713/2019 are also recorded by the investigating officer. On perusal of the submissions made by the injured persons

in these two crimes, it is clear that there was a free fight between two groups resulting into sufferance of injuries by both sides. The learned Additional Public Prosecutor on instructions from the investigating officer submitted that all injured from both sides were hospitalized for some period and they are already discharged from the hospital.

Previous statement of Anil recorded on 18.09.2019 resulting into culmination of registration of Crime No.712/2019 would show that prior to two months of the incident, complainant in Crime No.713/2019 Aruna made some construction by making encroachment therefore dispute arose in between them. On that count, wife of Anil lodged report against Aruna in the police station and a crime was registered. Statement dated 18.09.2019 further revealed that thereafter prior to some days of incident dated 18.09.2019, Aruna lodged report against his son on the basis of which the crime was registered. Not only that, that was also published in the newspapers. Statement dated 18.09.2019 of Anil would show that on 18.09.2019 at 08:30 in the night he went in front of house of Aruna and asked as to why she has lodged report against her son. According to said statement, thereafter the incident has occurred resulting into free fight between two parties. Similar statement of injured Anil is recorded on 27.09.2019. From these two statements, it is clear that it is Anil the injured who first went and called Aruna and that has culminated ultimately into free fight.

From investigation of both the crimes, it is clear that investigating agency has seized all weapons i.e. sticks

from the spot itself. The learned Additional Public Prosecutor for State, on instructions from the investigating officer, submits that investigation in both the crimes is almost over and only ministerial act of filing of charge-sheet is remained to be done.

The applicant was protected by interim order by this Court on 15.10.2019 and in view of the condition imposed on him he has attended the police station.

Looking to the aforesaid aspect and looking to the nature of the injuries, I am of the view that the applicant can be protected by exercising discretion in his favour. That leads me to pass the following order :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.712/2019 registered with Police Station, Arvi, Tq. Arvi, Dist. Wardha for an offence punishable under Sections 307, 143, 144, 147, 148, 149, 323 and 324 of the Indian Penal Code, applicant -Shrawan s/o Chhatrapati Wankhade, be released on bail on he executing P.R. Bond in the sum of Rs.15,000/- with one solvent surety in the like amount.
- (iii) The applicant is directed to attend Police Station, Arvi, Tq. Arvi, Dist. Wardha as and when required by the investigating officer.

The application is disposed of.

JUDGE