

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

**CRIMINAL APPLICATION (ABA) NO. 786 OF 2019**

Ajay Bimal Sarkar.Vs.State of Maharashtra,thr.P.S.O, P.S. Ramnagar, Chandrapur.

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

Court's or Judge's orders.

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Mr. A. R. Rawlani, Advocate for applicant.  
Mr. M.K. Pathan, A.P.P. for non applicant- State.

**CORAM : V. M. DESHPANDE, J.**  
**DATED : DECEMBER 02, 2019**

Heard Mr. Rawlani, learned counsel for the applicant and Mr. Pathan, learned Additional Public Prosecutor for the non applicant-State. Also perused the reply filed on behalf of the prosecution.

The applicant is apprehending his arrest in connection with Crime No.1343/2019 registered with Police Station, Ramnagar, Chandrapur for an offence punishable under Sections 307, 326 read with Section 34 of the Indian Penal Code.

Submission of Mr. Rawlani, learned counsel for the applicant is that the applicant is falsely implicated in the crime. According to his submission, in fact the applicant and injured were trying to intervene in an ongoing quarrel and therefore, he is the victim in the crime. He submits that pen is in the hands of police and therefore they are falsely noting that there was an attempt to give knife blow on the chest of the injured. He submits that the injury is not on vital part of the body of the complainant but it was on the palm and therefore there could not be any offence for punishable under Section 307 of the Indian Penal Code. At the most it

will be under Section 324 of the Indian Penal Code which is a bailable offence.

The learned Additional Public Prosecutor Mr. Pathan has vehemently opposed the anticipatory bail application by filing detailed reply.

It is an admitted position that the applicant is a Corporator of the area known as Bengali Camp where the incident has occurred. The offence is registered in view of the report lodged by injured Pramod Hiranman Tiwari. As per his report, on the day of the incident i.e. on 28.10.2019 when he was present in the house he received a phone call from one Dilip Sarkar. Said Dilip Sarkar informed on phone that quarrel is going at Bengali Camp. Therefore, the injured in his own four-wheeler vehicle went there. That time two boys were quarreling beside the office of the applicant and at that time applicant was also present. As per the report, when Pramod, the complainant/injured tried to intervene and pacify the quarreling boys, the present applicant said why he is intervening. Thereafter, he took out a knife from his full pant pocket and tried to give knife blow on his chest. The said was thwarted by the injured and in that the victim suffered injuries on his palm.

The injury is never a *sine qua non* for the offence punishable under Section 307 of the Indian Penal Code. The intention has to be seen. Intention can be gathered from the attaining circumstances.

In the present case, the circumstance is that the applicant took out a knife from his full pant pocket and attempted to give blow on the chest of injured. Therefore,

in my view, intention at least *prima facie* is writ large. Therefore, submission of learned counsel for the applicant is devoid of any substance that there was no injury on the vital parts of the body of the injured.

The applicant is a Corporator. It is not expected from any Corporator that he will carry dangerous weapons like knife on his person. A Corporator can always pacify or solve the problem by democratic ways, however it is not expected from any Corporator to take the law into his own hands and try to kill a person who was attempting to resolve the dispute. The learned Additional Public Prosecutor has invited my attention to a chart annexed along with reply. It shows that 11 offences are pending against the applicant and most of the offences are bodily offences. Further, applicant being a Corporator is an influential person. The injured is also a resident of the area of which the applicant is a Corporator.

Looking to the serious accusations made against the applicant and the fact of his position in the society, there is every possibility that he will influence the prosecution witnesses coupled with the fact that the applicant is having past criminal record and as on today 11 offences are still pending against the applicant. Thus, in my view, present is not the case wherein the applicant is entitled for any discretionary relief. Consequently, application is rejected.

Interim order dated 21.11.2019 passed by this Court stands vacated.

**JUDGE**