

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

LD-VC CRIMINAL APPLICATION (ABA) NO. 458 OF 2020

(Abdul Faizan Abdul Zahed vs. The State of Maharashtra thr. P.S.O., P.S. Mangrulpir, District Washim)

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

Court's or Judge's orders.

Shri Tejas Deshpande, Advocate for the applicant.
Ms. H.N. Jaipurkar, APP for the non-applicant / State.

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CORAM : PUSHPA V. GANEDIWALA, J.
JULY 21, 2020.

Heard Shri Deshpande, learned counsel
for the applicant and Ms. Jaipurkar, learned
Additional Public Prosecutor for the State, through
Video Conferencing.

The applicant is already protected vide
ad-interim bail order dated 25/06/2020.

Perused the application and affidavit-in-
reply and the documents annexed.

A perusal of the First Information Report
reveals involvement of seven accused in this crime.
The accused No. 5 - Dr. Manik Khan and accused No.
2 - Abdul Furqan Abdul Zahed have already been
granted anticipatory bail by this Court vide order
dated 19/05/2020.

Shri Deshpande, learned Counsel for the
applicant urged to allow the application of this
applicant on the ground of parity. Learned Counsel

also submitted that the genesis of the present crime lies in the civil dispute with regard to one shop between the parties, they being relatives and counter cases have been registered against each other.

Learned Counsel also argued with regard to unexplained delay of three days in lodging the F.I.R.

As against this, learned Additional Public Prosecutor strongly opposed the application on the ground of seriousness of the offence and the nature of role attributed to the present applicant.

I have considered the submissions made on behalf of both the sides.

At the outset, the ground of parity would not be applicable to the present applicant as the perusal of the F.I.R. would reveal that he assaulted son of the informant by means of knife on his vital part i.e. head injury with fracture on left alana.

The injured was admitted for some days in private hospital and thereafter he was referred to the Government Medical College, Akola.

The role attributed to the present applicant is greater than the role attributed to the aforesaid co-accused, who are on anticipatory bail.

The affidavit-in-reply on behalf of the State further reveals that the present applicant also used iron rod and the chronology of the

circumstances would reveal his intention to kill the son of the informant.

The learned Counsel for the applicant does not deny the criminal antecedents of the applicant as one crime bearing No. 62/2012 was registered against him for the offence punishable under Sections 307, 143, 323 of the Indian Penal Code and the said case is pending for trial before the competent Court.

The prosecution requires custody of the present applicant to recover the weapon of offence i.e. knife from the applicant and the *prima facie* case of commission of the serious offence against him.

In such circumstances, no case for anticipatory bail is made out.

The order of ad-interim protection to the present applicant vide Order dated 25/06/2020 is hereby recalled.

The criminal application is rejected and disposed of accordingly.

This order be communicated to the counsel appearing for the parties, either on the e-mail address or on Whats app or by such other mode, as is permissible in law.

JUDGE

D.S. Baldwa