

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

CRIMINAL APPLICATION (ABA) NO. 453 OF 2020

(Shaikh Ishak s/o Shaikh Ismail and another ..vs.. State of Maharashtra, through PSO, PS
Hiwarkhed, District Akola)

WITH

CRIMINAL APPLICATION (ABA) NO. 575 OF 2020

(Sumer Ali Ahmed Ali ..vs.. State of Maharashtra, through PSO, PS Hiwarkhed, District Akola)

WITH

CRIMINAL APPLICATION (ABA) NO. 699 OF 2020

(Asim Ali Ahmed Ali ..vs.. State of Maharashtra, through PSO, PS Hiwarkhed, District Akola)

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

Court's or Judge's orders

Mr. A.B. Mirza, Counsel for the applicant in ABA 453/20,
Mr. Mir Nagman Ali, Counsel for the applicants in ABA 575 & 699/20,
Mr. V.A. Thakre, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 02-12-2020

These three applications seeking pre-arrest protection are heard and decided together, since they arise from the same incident.

2. Perusal of the case diary would reveal that the incident occurred at or nearby the grocery shop of one Shaikh Ismail.

3. Mr. Mir Nagman Ali, learned Counsel, who is appearing on behalf of one faction, would submit that the incident was a free fight in which the members of both clashing parties suffered injuries.

4. It is not really necessary to minutely examine the

material on record and to make a decisive observation on the cause of the incident. Briefly, the incident took place since there was some dispute qua the payment of the goods purchased from the grocery shop of Shaikh Ismail.

5. The applicant-Sumer Ali in ABA 575/2020 allegedly assaulted one Shaikh Ishak with stick. The applicant-Asim Ali in ABA 699/2020 allegedly assaulted Shaikh Ismail with sword and the applicants-Shaikh Ishak and Shaikh Rizwan in ABA 453/2020, who belong to the family of the grocery shop owner, allegedly assaulted Zakir Ali and others with iron rod and stick.

6. Considering the fact that there are two versions and in particular considering the role attributed, I am inclined to grant pre-arrest protection to the applicant-Sumer Ali in ABA 575/2020 and the applicants-Shaikh Ishak and Shaikh Rizwan in ABA 453/2020. Perusal of the injury certificates would reveal that the persons whom the said applicants allegedly assaulted have suffered only abrasions. In my considered view, the custodial interrogation of the said applicants may not be necessary.

7. However, I am not inclined to exercise discretion in favour of the applicant-Asim Ali in ABA 699/2020 in view of the role attributed and the allegation that he was armed with a sword and assaulted Shaikh Ibrahim on the

head. The version of the injured and the informant is *prima facie* substantiated by the injury report. The sword is to be recovered.

8. In this view of the matter, while ABA 453/2020 preferred by the applicants-Shaikh Ishak and Shaikh Rizwan and ABA 575/2020 preferred by the applicant-Sumer Ali are allowed and the interim orders dated 30-9-2020 and 19-05-2020 are made absolute, save and except of the modification that the applicants shall attend the police station, till filing of the charge-sheet, as and when required by the Investigating Officer, ABA 699/2020 preferred by the applicant Asim Ali is rejected.

JUDGE

adgokar