

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

CRIMINAL APPLICATION (ABA) NO. 623 OF 2020

(Ku. Seema Uttam Dhabarde ..vs.. State of Maharashtra, through its PSO, PS Ramnagar,
Chandrapur)

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

Court's or Judge's orders

Mr. A.S. Mardikar, Senior Counsel assisted by Mr. R.R. Vyas, Counsel for
the applicant,
Mr. P.S. Tembhare, Addl.P.P. for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 21-10-2020

Hearing was conducted through video conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. I have heard Mr. A.S. Mardikar, the learned Senior Counsel for the applicant-accused and Mr. P.S. Tembhare, the learned Additional Public Prosecutor for the non-applicant.

3. At the very outset, it must be recorded, that since the request for withdrawal of the application was made after full-fledged hearing and the disclosure of mind by the Court that the application deserves dismissal and when the Court was about to dictate the order of dismissal, the request is rejected. I have come across number of instances, and the disturbing trend is increasing exponentially, of withdrawing the application

for anticipatory bail or regular bail in view of the indication of mind by the Judge, and after full-fledged hearing, the application is withdrawn only to prefer a fresh application without any change in circumstances. Unfortunately, the invidious practice of bench hunting has now afflicted the Nagpur Bench, and this appears to be a relatively recent phenomenon. I am not suggesting, even for a moment, that the learned Counsel appearing in this matter have ever indulged in such sharp practice nor am I suggesting that the majority of the Bar are tempted to do so. While a microscopic minority indulge in bench hunting, rather than be selective, I have decided to permit withdrawal only if such request is made before the full-fledged hearing and indication of mind.

4. Adverting to the merits of the application, the allegation which the applicant is facing, is that she and the co-accused entered into a criminal conspiracy to murder Manoj Adhikari, with whom the applicant was in a relationship for quite sometime.

5. At the request of the learned Senior Counsel Mr. A.S. Mardikar, I am not recording elaborate reasons for the rejection of the pre-arrest protection. However, since brief reasons shall have to be indicated, as is the law declared by the Apex Court, it must be observed that there is more than ample material to *prima facie* link the applicant with the crime.

6. Co-accused 1, 2 and 4 are arrested and during the investigation, it transpired that the deceased is murdered pursuant to a criminal conspiracy between the applicant and the co-accused. Accused 2 is arrested from the scene of the crime. He was armed with an axe. According to the prosecution, accused 2 was found in the apartment of the deceased with the axe when the relatives of the deceased entered the apartment by forcing open the door. Accused 2 purportedly gave an extra judicial confession implicating the present applicant, which is video recorded by one Gaurav Mandal, on his mobile phone. The applicant is alleged to have absconded since the day of the crime and the CDR shows that she was in contact with accused 4.

7. Considering the nature of the allegations, and the gravity thereof, the applicant is not entitled to pre-arrest protection. It would be next to impossible to unravel the various facets of the alleged conspiracy in the absence of custodial interrogation. Protecting the applicant is likely to derail the investigation.

8. The application is dismissed.

JUDGE

adgokar

**Prafulla
Adgokar**

Digitally signed
by Prafulla
Adgokar
Date:
2020.10.23
15:42:50 +0530