

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

CRIMINAL APPLICATION (ABA) NO.640 OF 2020

(Rupesh s/o Tikaram More and another Vs. State of Maharashtra thr. PSO PS
Ballarpur, Dist. Chandrapur)

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

Court's or Judge's orders.

Mr. M. Anilkumar, Advocate for Applicant.
Mr. C.A. Lokhande, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.
DATE: 29th OCTOBER, 2020.

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

2] The applicants are seeking pre-arrest protection in connection with Crime 626/2020 registered with Police Station Ballarpur, District Chandrapur for offences punishable under section 353, 379, 506, 186 read with section 34 of the Indian Penal Code and section 4 and 25 of the Indian Arms Act.

3] The crime is registered pursuant to report lodged by the Range Forest Officer Mr. Santosh Thipe at 12:00 noon on 26.09.2020. The incident occurred between 10:00 p.m. and 11:30 p.m. on 25.09.2020.

4] The allegation is that the forest officials were on routine patrol. The patrolling squad came across a blue coloured tractor parked at the *nala*/canal. Sand was being filled in the tractor. Noticing the forest officials, the labour who were engaged in filling the sand in the tractor, fled. The forest officials noticed that sand which was illegally excavated was filled in the tractor. The tractor was seized and was in the process of being taken, presumably to the forest establishment, that four to five motor-cycle borne persons armed with sharp edged weapons, wooden sticks and stones reached the spot. Two persons disclosed their names as Manoj Kshirsagar and Rupesh More, who are the applicants herein.

5] The persons who confronted the forest official issued threats that if the tractor is not released the forest officials would be killed.

6] On the basis of the said report Crime 626/2020 is registered. My attention is invited to a document purportedly addressed by Mr. Santosh Thipe, Range Forest Officer. It is not clear, to whom the purported letter is addressed. The document on record is a typed copy and not a photo-copy of the document. Be that as it may, emphasizing on one sentence in the said document, the submission is that the stand of the Forest Officer is inconsistent, in as much as it is suggested in the said letter that the seized tractor was forcibly re-possessioned, while, in

the same breath, the tractor is shown as seized.

7] No advantage can be derived by the applicant – accused from the language used. The said letter and the first information report make it abundantly clear that the tractor was seized by the forest officials and thereafter the same appears to have been forcibly re-possessioned. It is in this context, that while reciting that the tractor was forcibly re-possessioned, it is also mentioned that the value of the seized tractor and the sand is approximately Rs.2,50,000/-. The learned Sessions Judge has noted that the tractor along with the trolley was forcibly re-possessioned and it was only during investigation that the same was again seized by the police. It is further noted that the weapons used to issue threats and to intimidate are to be recovered. The learned Sessions Judge, therefore, did not consider it appropriate to exercise discretion in favour of the applicant. I have no reason to take a different view.

8] Even *de hors* the reasons given by the learned Sessions Judge, illegal excavation of natural resources is an extremely grave crime and such instances are increasing exponentially. Equally serious is the trend of public servants being intimidated and assaulted. No case is made out for exercise of discretion. The application is dismissed.

JUDGE