

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

CRIMINAL APPLICATION (ABA) NO.659 OF 2020

(Chandramani s/o Rajdeo Yadav and another Vs. The State of Maharashtra thr. PSO
PS Sadar, Nagpur)

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

Court's or Judge's orders.

Mr. R.K. Tiwari, Advocate for Applicants.
Mr. I.G. Damle, APP for Non-Applicant/State.
Mr. P.V. Navlani, Advocate for assist to prosecution.

CORAM: ROHIT B. DEO, J.

DATE: 18th DECEMBER, 2020.

Heard.

2. The applicants are apprehending arrest in Crime 478/2020 registered with Police Station Sadar, Nagpur for offence punishable under section 307, 506 read with section 34 of the Indian Penal Code.

3. The incident is captured in CCTV footage and the learned counsel for the applicant Mr. Tiwari submits, without prejudice to the right of the accused to take an appropriate defence, that even if it is assumed *arguendo*, that the incident took place as seen in the footage, no case of offence punishable under section 307 of IPC is made out.

4. It does appear from the case diary, that a physical altercation did occur and that Mr. Sunil Karamchand Abhichandani – complainant was clearly at the receiving end. The alleged incident occurred between 06:00

p.m. to 07:00 p.m. on 23.10.2020 in the premises of the Nagpur Municipal Corporation and appears to be a fall out of a trivial dispute concerning some message on the contractors social media group.

5. The report appears to have been lodged at 09:30 p.m. on the next day and the crime is registered precisely at mid-night intervening 24.10.2020 and 25.10.2020. Apparently, the complainant sought treatment at a private hospital and the injury report is that he suffered three lacerated wounds which are described as simple injuries.

6. While the complainant alleges that a chisel was used, all the counsels fairly agree that in the CCTV footage, there is no clarity on whether a chisel was as a fact used. In any event, the injury report and the weapon query report which is now made available for my perusal do not suggest the use of chisel as a weapon. This of course is a *prima facie* observation.

7. The assault is with plastic chair. While according to Mr. Tiwari two blows were struck, the State alleges that three blows were inflicted. Be that as it may, broken pieces of the plastic chair are seized and opinion of the Doctor is that the injuries are probably caused due to the use of the seized parts of the plastic chair.

8. Custodial interrogation does not appear to be necessary since there does not appear to be any chisel which needs to be recovered. In any event, the seized articles

allegedly are blood stained, and if the prosecution case is right, would sufficiently serve the purpose of the prosecution, if other relevant factors are brought on record. The applicants do not have any antecedents.

9. Considering that *prima facie* it cannot be said that the applicants intended to cause death or to cause such injury as the applicants knew or believed would imminently cause death, I am inclined to protect the applicants.

10. In the event of arrest in Crime 478/2020 registered with the Police Station Sadar, Nagpur for offence punishable under section 307, 506 read with section 34 of the Indian Penal Code, the applicants shall be released on furnishing personal bond of Rs.25,000/- each with a solvent surety of like amount, which surety may be furnished within four weeks from the arrest, if any.

11. The applicants shall not make any attempt to influence the witnesses.

12. The applicants shall not indulge in similar offence while enjoying pre-arrest protection. It is made clear that if the applicants breach this condition, that may be a ground, *ipso facto*, to seek cancellation of the pre-arrest protection.

JUDGE