

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

CRIMINAL APPLICATION (ABA) NO.105 OF 2021

(Satish s/o Chandu Durge Vs. State of Maharashtra thr. PSO PS Durgapur, Tah. &
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. A.A. Mardikar, Advocate for Applicant.
Mr. N.R. Rode, APP for Non-Applicant/State.
Mr. A.A. Dhawas, Advocate assisting the prosecution.

CORAM: ROHIT B. DEO, J.

DATE: 5th MARCH, 2021.

The applicant is apprehending arrest in Crime 24/2021 registered with Police Station Durgapur, District Chandrapur for offences punishable under Sections 395, 450, 435, 324 and 427 of the Indian Penal Code.

2. The incident occurred on 26.01.2021. A mob comprising approximately 10 to 15 persons including men and women allegedly barged in the residence of the complainant's husband Parshuram. One person caused injury to the complainant by banging her head on the wall. One person, who is named in the report, allegedly stole the *mangalsutra* which the complainant was wearing and someone allegedly stole some cash. It is alleged that the mob caused wanton damage to household article and the vehicles parked in the vicinity.

3. The prosecution case appears to be that the mob

was enraged since one Shubham Nikure died after consuming the *toddy* manufactured by the complainant's husband.

4. In so far as the applicant is concerned he is not named either in the report or in the statements recorded on 27.01.2021 which include the statement of the complainant's husband. The applicant is named in the supplementary statement recorded on 30.01.2021 and there is no material on record to throw light on why the complainant did not disclose the name of the applicant either in the report or in her statement recorded on 27.01.2021.

5. Nothing is to be recovered from the applicant. The cash allegedly stolen is recovered from co-accused. The *mangalsutra* is yet to be recovered. But then, even according to the complainant the *mangalsutra* was stolen by co-accused Mahesh Thakre.

6. Considering the material on record and the absence of the need for custodial interrogation, I am satisfied that the applicant has made out a case for pre-arrest protection.

7. The learned APP Mr. Rode points out that the applicant is facing as many as five prosecutions. Four prosecutions are under the Maharashtra Prohibition Act, 1949 (Act) and one prosecution in which the allegation is that the applicant hit the complainant with a stone after

questioning him why he (complainant) beat up the applicant's brother.

8. The bodily offence was committed, if at all, in 2007. In so far as the prosecutions under the Act are concerned, since both i.e. the complainant's husband and the applicant appear to be involved in the same obnoxious trade, the possibility that the applicant is belatedly named due to the business rivalry cannot be ruled out.

9. While adverse antecedents of the applicant is ordinarily relevant, considering that the involvement of the applicant in the present crime appears to be blurred if not doubtful, I am not inclined to deny interim protection on the ground of adverse antecedents.

10. However, the apprehension of the complainant who is represented by the learned counsel Mr. A.A. Dhawas that the applicant may pressurize the witnesses or then threatened or intimidate the complainant, will have to be allayed.

11. In the event of arrest in Crime 24/2021 registered with the Police Station Durgapur, District Chandrapur for offences punishable under Sections 395, 450, 435, 324 and 427 of the Indian Penal Code, the applicant shall be released on furnishing personal bond of Rs.25,000/- with a surety of like amount. Considering the prevailing situation, surety may be furnished within four weeks.

12. The applicant shall not make any attempt to influence the witnesses or tamper with the evidence.

13. The applicant shall not leave the country without permission of the jurisdictional court.

14. The applicant is warned not to threaten or intimidate or otherwise influence either the complainant or any witness or to otherwise obstruct the course of investigation.

15. The applicant shall not, while on bail, indulge in any bodily offence or offence punishable under the Act, or any offence similar to the prosecutions which he is facing.

16. Breach of any condition may *per se* entail cancellation of bail, if the State moves an appropriate motion.

JUDGE