

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

CRIMINAL APPLICATION (ABA) NO.157 OF 2021

(Heera Prakash Ghumare Vs. State of Maharashtra thr. PSO PS Old City, Akola, Tah.
& Dist. Akola)

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

Court's or Judge's orders.

Mr. Mir Nagman Ali, Advocate for Applicant.
Mr. M.K. Pathan, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 31st MARCH, 2021.

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

2. The applicant is apprehending arrest in Crime 44/2021 registered with Police Station Old City, Akola for the offences punishable under Sections 143, 147, 148, 149, 327 and 394 of the Indian Penal Code.

3. The gist of the report is that at the instigation of Gajanan Kamble, co-accused Lalya and the applicant assaulted the complainant with iron pipes. Mr. Mir Nagman Ali states that Gajanan Kamble is granted pre-arrest protection on the premise that his presence at the scene of occurrence is doubtful. The learned Additional Sessions Judge considered the toll receipts and other material placed on record by co-accused Gajanan Kamble to substantiate the contention that on the relevant date, he was required to

attend the High Court in connection with an appeal hearing. The learned Additional Sessions Judge further considered the affidavit placed on record by the complainant exonerating Gajanan Kamble of any wrongdoing. In the affidavit, the complainant apparently stated that while he did name Lalya and the complainant herein, since he was unconscious after the assault, the name of Gajanan Kamble could have cropped in.

4. In view of the submission of the learned counsel that relying on the affidavit of the informant co-accused Lalya is granted pre-arrest protection, this Court extended pre-arrest protection to the applicant vide order dated 10.03.2021 subject to the condition that the applicant attend the concerned police station on the dates prescribed and the period of attendance shall be considered as deemed custody.

5. The learned APP Mr. Pathan fairly states that the applicant has attended the police station and the weapon is recovered.

6. Considering the material in the case diary, if the pre-arrest protection is made absolute the investigation is not likely to suffer.

7. The interim pre-arrest protection granted vide order dated 10.03.2021 is made absolute with the only modification that till the filing of the charge-sheet, the applicant shall attend the concerned police station as and

when directed by the Investigating Officer.

JUDGE

NSN