

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

CRIMINAL APPLICATION (ABA) NO.319 OF 2021

(Swapnil s/o Ashok Kale Vs. The State of Maharashtra thr. PSO PS Karanja (City), Tq.
Karanja, Dist. Washim)

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

Court's or Judge's orders.

Mr. Tejas Deshpande, Advocate for Applicant.
Mrs. K.R. Deshpande, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 29th JUNE, 2021.

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

2. Yet again, an attempt is made to bench hunt.

3. The applicant approached this Court vide Criminal Application (ABA) 804/2020 seeking pre-arrest protection in Crime 813/2020 registered with Police Station Karanja (City) for offence punishable under Section 307 read with Section 34 of the Indian Penal Code.

4. This Court rejected the pre-arrest protection vide order dated 05.01.2021.

5. While rejecting the pre-arrest protection, this Court noted that the injury report is consistent with the

version of the injured and the statements of several eye witnesses. It is further noted that the applicant is already facing prosecution under Section 307 of IPC vide Crime 612/2019 and that the weapon is to be recovered. After this Court (Coram: R.B. Deo, J.) rejected the pre-arrest protection the applicant again approached the Sessions Court vide Criminal Misc. Application 54/2021. The applicant did not disclose that his pre-arrest protection application was dismissed by the High Court on merits. The only disclosure made in the application preferred before the Sessions Court is the earlier rejection by the Sessions Court. To make the matters worse, the note appended below the application states that no application is filed or pending before the High Court.

6. I am more than satisfied, that the applicant is taking the process of law for a ride and is indulging in bench hunting and forum shopping.

7. While a successive application can indeed be preferred, it is well settled that the pre-requisite is such change in circumstances as would warrant revisiting the entitlement to pre-arrest protection.

8. The justification, if at all, pleaded is that after the rejection of the pre-arrest protection, the charge-sheet is filed against co-accused and he is released on regular bail.

9. The applicant is absconding and the charge-sheet is filed under Section 299 of the Criminal Procedure Code, 1973. Needless to record, that qua the applicant, the investigation is on going. The fact that the co-accused is released on regular bail has no relevance to the entitlement of the applicant to pre-arrest protection.

10. This application is an abuse of the process of law and is liable to be rejected on that ground alone. However, even examining the merits, there is absolutely no scope to exercise discretion in favour of the applicant.

11. The application is dismissed with costs of Rs.10,000/-.

12. The Registry shall bring this order to the notice of the learned Sessions Judge, Washim.

13. The costs shall be deposited with the High Court Legal Services Sub-Committee, Nagpur with the next fifteen days, and in default, the Collector, Washim shall recover the same as arrears of land revenue.

14. The application is dismissed.

JUDGE