

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

CRIMINAL APPLICATION [ABA] NO. 401/2021.

Parvez Khan Anwar Khan.

VERSUS

State of Maharashtra, PS. Lakadganj, Nagpur.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.G. Hunge, Advocate for the Applicant.
Shri M.J. Khan, APP for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : JULY 30, 2021.

Hearing was conducted through Video
Conferencing.

2. Rejection of pre-arrest bail by the Sessions Court, Nagpur in Crime No.260/2021 registered with the non-applicant – Lakadganj Police Station, Nagpur for the offence punishable under Sections 399, 402, 188, 270 of the Indian Penal Code, Sections 4 and 25 of the Arms Act and Section 135 of the Maharashtra Police Act, led the applicant to approach this Court for reviving his prayer for pre-arrest protection.

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3. It is the prosecution case that on 15.05.2021 upon secret information, the police went to the concerned place during night hours and found that some persons had assembled with arms. They were holding weapons like sword, knife, crowbar, nylon rope and iron rod etc. The police succeeded in apprehending 4 of them, whilst 2 amongst them ran away. The weapons and the instruments used for house breaking were seized in presence of the panchas. During interrogation it was revealed that the applicant and one other person namely Suraj @ Vatya Dhapodkar succeeded in escaping from the spot by taking benefit of darkness.

4. It is straneously argued that neither the applicant was present on the spot, nor he has any connection with the alleged crime. The investigation is at a preliminary stage. On the date of arrest of the co-accused, name of the applicant surfaced as one of their associate. The instruments and weapons seized from the

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apprehended accused are prima facie sufficient to infer that they had assembled at the said place by making preparation for committing dacoity. The offence of making preparation of dacoity itself postulates a pre arranged determined plan of 5 or more persons to commit robbery irrespective of the defined target. The offences are punishable with imprisonment which may extend to the period of 10 years.

5. The State while resisting the bail has harpened on the point that the applicant is a habitual offender. In past he was involved in various offences of serious nature, as well as preventive action under the Code was twice taken against him.

6. Perusal of the crime chart discloses that during the year 2000 to 2018, total 9 offences were registered against the applicant ranging variety of offences punishable under the Indian Penal Code. Majority of offence case of bodily offences, and offence under the Arms Act.

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Moreover, in the year 2016 and 2020, prohibitory action was taken against the applicant. Thus, prima facie there is material to indicate that time and again the applicant was found indulging into the anti social activities.

7. In terms of Section 438[1][ii] of the Code, previous antecedents of the applicant is one of the consideration. The alleged offence is of making preparation of dacoity, which is antisocial in nature. Generally in cases of dacoity innocent citizens are being targeted. In such type of crime, the investigating agency must get sufficient opportunity. The long crime chart is sufficient to prima facie indicate that the applicant was in the habit of committing various offences. In context to the nature of existing crime, antecedents would play vital role. Having regard to above facts, this is not a fit case where pre-arrest protection can be granted. Hence, Criminal Application is rejected.

JUDGE

Rgd.