

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

CRIMINAL APPLICATION [ABA] NO. 446/2021.

Gajanan Bapurao Chincholkar.

-VERSUS-

State of Maharashtra, P.S. Umarkhed, Yavatmal.

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

Court's or Judge's Orders

Shri A.M. Kukday, Advocate for the Applicant.
Shri I.J. Damle, A.P.P. for the Non-applicant.
Shri V.N. Patre, Advocate for the Complainant.

CORAM : VINAY JOSHI, J.

DATE : AUGUST 02, 2021.

Criminal Application (APPA) No.1213/2021.

Heard.

2. For the reasons stated in the application, the same is allowed and disposed of.

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Heard.

2. In anticipation of arrest in Crime No.355/2021 registered by the non-applicant - Umarkhed Police Station, District Yavatmal for the offence punishable under Section 326 of the Indian Penal Code, the applicant is seeking pre-arrest

2

protection.

3. It is mainly contended that there was old dispute in between the parties on account of right of way. According to the applicant on the date of occurrence, the informant came to his house, assaulted him and while running, fell down due to slip of motor cycle, in which he sustained injuries. Making a capital of said injury, the alleged false complaint has been lodged. The applicant has produced certain copies of revenue orders to show that there was old dispute in which orders are passed in his favour.

4. The State has resisted the bail by filing affidavit reply. So also the learned Counsel for the informant has opposed the prayer for grant of pre-arrest protection to the applicant. It is contended that on the date of occurrence, on the issue of right of way, the applicant accosted the informant and assaulted him by means of iron pipe and knife. In the said occurrence, the informant sustained injuries of grave nature for which he was admitted

3

in government hospital, Nanded for a period of one week and after discharge, he filed the report.

6. It is further submitted that some offences were also registered against the applicant in past. The same are brought to the notice to contend that the applicant is prone of committing offences. Moreover, one N.C has been registered against the applicant after the occurrence which shows that the applicant once again came to the house of the informant and gave threats.

7. Perused case diary and police papers. Injury certificate discloses that there are total 6 injuries on the person of the informant including fracture to his leg. Medical paper discloses that the informant was an indoor patient from 11.06.2021 to 18.06.2021. There are statements of two eye witnesses, who stated that at the relevant time the applicant had assaulted the informant by means of iron rod.

8. Whether the injury was by way of fall or not, is a matter of defence. At this juncture, the

statement of victim, as well as of two eye witnesses specifically indicates that the applicant assaulted the informant by means of iron rod causing him fracture injuries. Both sides have pointed towards the old land dispute in between the parties and earlier police reports. Certainly the old dispute can be a ground which would work in both way. Yet the weapons used in the offence are to be seized. Prima facie there is specific material against the applicant, supported by medical papers. Custodial interrogation is necessary, hence, this is not a fit case to grant pre-arrest protection. Criminal Application is, therefore, rejected.

JUDGE

Rgd.