

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (ABA) NO. 583 OF 2021**

Akash s/o Govind Vaychal

..vs..

State of Maharashtra, thr. P.S.O.

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

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Shri Anant P. Wagh, Advocate for applicant.  
Shri M.J. Khan, A.P.P. for non-applicant/State.  
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**CORAM : VINAY JOSHI, J.**

**DATED : 20/09/2021**

Heard.

2. In anticipation of arrest in Crime No.170 of 2021 registered with Khamgaon City Police Station, District Buldhana for the offence punishable under Sections 143, 147, 148, 149, 307, 325 and 504 of the Indian Penal Code, the applicant is seeking for pre-arrest protection.

3. It is the prosecution case that the applicant and co-accused have assaulted the informant and others, by means of dangerous weapons and as such, attempt was made to commit his murder. One, Rajendra Ingle has lodged a report regarding the occurrence. It is stated that the informant runs a shop at Khamgaon Bazar. On 27.03.2021, around 02.00 pm, the applicant and co-accused came to the shop and demanded money for running shop. At that time,

all the assailants, who were holding different kind of weapons, have indiscriminately assaulted the informant and his associates. It is specifically stated in First Information Report that applicant Akash Vaychal has dealt a blow to the informants' son Abhay at his head by means of iron hammer causing him bleeding injury.

4. I have gone through the statement of four injured persons, who have stated that applicant Akash Vaychal dealt a blow by means of iron hammer. Perusal of injury certificate shows that Abhay sustained fracture injury at his head. It is pointed out that some of the co-accused were protected by this Court, however, on the basis of material against them, their matter came to be decided. Role of each accused and related material has to be independently scrutinized. The applicants' name has been surfaced in the First Information Report itself. Moreover, there is specific accusation that he dealt iron hammer blow to injured Abhay, which requires consideration.

5. Learned Counsel for the applicant would submit that the applicant is serving in a Military and only to pacify the quarrel, he went to the place. He would submit that the video clip of the occurrence does not show that the applicant used iron hammer in the occurrence. Moreover, he has pointed that there are allegations against co-accused Akshay Ahir of using iron hammer, therefore, according to him, it is

not possible that the applicant has also used iron hammer. Hair splitting scrutiny is not warranted at this stage. The possibility of using iron hammer by more than one accused always exists. At this juncture, the First information Report and statement of eye-witnesses assigned a specific role to the applicant. The medical report supports the statement of eye-witnesses. The alleged offence is of serious nature.

6. Having regard to the particular role of the applicant and his presence on the spot, he is not entitled for pre-arrest protection, hence, the following order :

(a) Criminal Applications stands rejected.

**JUDGE**

*Trupti*