

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

CRIMINAL APPLICATION (ABA) NO. 675 OF 2020

(Manoj Gautam Pipare ..vs.. State of Maharashtra, through PSO, PS Warora)

WITH

CRIMINAL APPLICATION (ABA) NO. 676 OF 2020

(Samsan Ashok Mankar ..vs.. State of Maharashtra, through PSO, PS Warora)

WITH

CRIMINAL APPLICATION (ABA) NO. 677 OF 2020

(Bablu @ Pintu Madhukar Maraskolhe ..vs.. State of Maharashtra, through PSO, PS Warora)

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

Court's or Judge's orders

Mrs. Shital Dhawas, Counsel for the applicants,
Mrs. Kalyani Deshpande, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 05-01-2021

These applications arise out of the same crime and are, therefore, heard together and decided by this common order.

2. The incident occurred on 08-7-2020 at 3.50 p.m. or thereabout.

3. It is alleged that the incident is an outcome of previous rivalry. The report is lodged by Mr. Abhay Chincholkar. When the incident occurred, Abhay was riding pillion with his cousin Sanjay Chincholkar. Both were returning alongwith other members of the family, having attended the Warora Police Station. It is alleged that the arrested co-accused, who were accompanied by some persons then unknown to Abhay and Sanjay, came

in a Scorpio vehicle. Sanjay was assaulted with a fiber rod and suffered fracture. Abhay was allegedly assaulted with fist blows.

4. The applicants have attended the concerned police station complying with the condition of pre-arrest protection. Since the applicants are not named in the report, their test identification was done and according to the prosecution, the complainant and injured Sanjay have identified them as the assailants.

5. The learned Sessions Judge rejected pre-arrest protection on the ground that the test identification would be required. The test identification is now complete. However, the prosecution contends that an android phone was stolen from Sanjay, which is to be recovered. There is no reference to the theft of an android phone or for that matter any article in the report. Perusal of the material in the case diary would show that in the note recorded two months after the incident, it is shown that nothing was stolen. The details of the phone allegedly stolen are not disclosed. In this view of the matter, I am not inclined to compel the applicants to undergo police custody only for the recovery of the android phone.

6. The learned Additional Public Prosecutor Mrs. Kalyani Deshpande has pointed out that at least two

previous prosecutions are initiated against each of the applicant. However, considering that in the present case, the custodial interrogation of the applicants is not necessary and that the previous prosecutions apparently do not involve a very serious offence, I am inclined to make the pre-arrest protection absolute.

7. The pre-arrest protection granted vide order dated 05-11-2020 is made absolute with the only modification that till the charge-sheet is filed, the applicants shall attend the concerned police station as and when directed by the Investigating Officer.

JUDGE

adgokar