

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

CRIMINAL APPLICATION (ABA) NO.680 OF 2020

(Jayawant @ Balu Sitaramaji Kubade and another Vs. The State of Maharashtra thr.
PSO PS Wadner, Tah. Hinganghat, Dist. Wardha)

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

Court's or Judge's orders.

Mr. P.N. Atkar, Advocate for Applicants.
Mrs. K.R. Deshpande, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.
DATE: 18th JANUARY, 2021.

I have perused the case diary. The prosecution case is that Forest Guard Mr. Manesh Sajjan received secret information that illegal excavated sand is being transported in the forest area. Mr. Manesh Sajjan and Forest Guard Mr. Madhav Mane were on patrolling duty. At 02:30 to 03:00 a.m. they came across the spot where the stock of sand was stored. They followed the tyre marks and noticed a blue colour four wheeler. Applicant 1 Balu and two others, armed with sticks, tried to attack the Forest Guard who left the spot and proceeded to village Khedki. They were followed by a silver colour four wheeler which dashed against their motor-cycle. After the Forest Guards fell down due to the dash to the motor-cycle, applicant 2 Nitin approached them with a can of petrol. Nitin poured the petrol on the person of the informant. The informant and Mr. Madhav Mane retaliated and at that time applicant 2

Nitin escaped with the petrol can.

2. The version of two forest guard is consistent. Perusal of the statements of witnesses who reached the spot in close proximity with the incident corroborates the version of the complainant Mr. Manesh Sajjan. The material in the charge-sheet, *prima facie*, is sufficient to connect the applicants with the alleged crime.

3. The learned counsel for the applicants would submit that the complainant Mr. Manesh Sajjan is habituated to harassing innocent villagers and the M.L.A. Mr. Sameer Kunawar and the association of Sarpanch have, in close proximity with the alleged incident, complained to the Collector. Be that as it may, considering the material on record, *prima facie*, it cannot be said that the applicants are falsely implicated. The allegation is serious. Public servants on duty are chased, their motor-cycle dashed against by the car, and attempt made to set afire the Forest Guard after pouring petrol/kerosene. The petrol can is yet to be recovered. That apart, considering the nature of the accusations, applicant 2 Nitin Wagh is not entitled to discretion. It would be necessary to custodial interrogate Nitin Wagh in order to give direction to the investigation.

4. In so far as applicant 1 Jayawant Kubade is concerned, the role attributed to him, as is discernible from the material in the case diary, is limited to the first incident.

Jayawant Kubade can be protected subject to certain conditions.

5. The application is partly allowed.

6. The pre-arrest protection prayer of applicant 2 Nitin Wagh is rejected.

7. Pre-arrest protection granted to Jayawant Kubade vide order dated 02.06.2020 is made absolute subject to he attending the concerned police station, as and when required, till the filing of the charge-sheet. The rest of the conditions in the order granting pre-arrest protection shall continue to be in force.

JUDGE