

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

**CRIMINAL APPLICATION (ABA) NO. 616/2021**  
(Mangesh S/o Dashrath Bawne Vs. The State of Maharashtra)

---

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

Court's or Judge's Orders

---

Shri P. R. Agrawal, Advocate for applicant.  
Ms. T. Udeshi, APP for non-applicant/State.

**CORAM : VINAY JOSHI, J.**  
**DATE : 08.10. 2021.**

Heard.

2. In anticipation of arrest in Crime No. 539/2021 registered with the Police Station Chandrapur City, District Chandrapur for offence punishable under Sections 307, 120-B of the Indian Penal Code and Section 3 read with Section 25 of the Arms Act, the applicant is seeking pre-arrest bail.

3. It is submitted that the applicant has been falsely implicated in the crime. He was not present at the time of incident. The applicant was externed from the District Chandrapur vide order

**2**

dated 24.11.2020 for the period of two years and therefore, it was impossible for him to enter into Chandrapur District. Moreover, it is argued that the main allegation of firing bullets is against co-accused Chotu Suryawanshi and therefore, the applicant's liberty can be protected.

4. The State resisted bail by filing affidavit-reply. It is contended that the applicant has physically participated in the crime. Moreover, he along with co-accused hatched conspiracy. Besides that, some antecedents have been placed on record.

5. Mother of injured namely Chinna @ Akash lodged report about the incident. It is her case that on 12.07.2021, she learnt that her son was admitted to the Hospital due to bullet injuries. Hence, she went and met her son. The injured has disclosed her that the co-accused Chotu Suryawanshi, applicant Mangesh and their associates have assaulted him by firing bullets.

**3**

6. Perusal of case diary indicates that on the following day of the incident, the statement of injured was recorded. In said statement, injured stated that, at relevant time, co-accused Chotu Suryawanshi repeatedly fired at his person. He also stated that four other named assailants were with Chotu Suryawanshi, out of which applicant Mangesh was one of them. Besides that, he stated that all assailants including applicant had hatched conspiracy which resulted into the incident. I have also gone through supplementary statement of injured wherein, he equally stated that co-accused Chotu Suryawanshi has fired on him.

7. Prima facie, the statement of injured which is direct evidence gives primacy over hearsay information given by informant. The injured in specific terms has assigned role of firing bullets to co-accused Chotu Suryawanshi who was already arrested and gun is recovered from him. At the most, the role of applicant is of mere presence at the time of occurrence and

**4**

participating in conspiracy. Certainly, by way of leading evidence, conspiracy has to be proved which is matter of trial. Though the applicant stated that due to externment order, it was impossible for him to enter into Chandrapur District, however, I am not impressed by said submission. Be that as it may, as the role of applicant is confined only about his presence, his liberty can be protected. However, as there are criminal antecedents, certain stringent conditions have to be imposed for desisting him from indulging into criminal activities. In view of that following order:-

(I) Application stands allowed and disposed of.

(II) In the event of arrest of applicant – Mangesh S/o Dashrath Bawne, he be released on bail on his furnishing P.R. Bond of Rs. 25,000/- with one surety in the like amount.

**5**

(III) The applicant shall not enter within the entire District Chandrapur as per externment order.

(IV) In case of breach of externment order, apart from other consequences, the State is at liberty to move this Court for cancellation of bail order.

(V) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

**JUDGE**

Gohane.