

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

CRIMINAL APPLICATION (ABA) NO. 734 OF 2020

(Sanjay @ Sandip Mahadev Hankare and another ..vs.. State of Maharashtra, through PSO, PS
Manora, District Washim)

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

Court's or Judge's orders

Mr. A.A. Dhawas, Counsel for the applicants,
Mr. S.S. Doifode, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 08-01-2021

The applicants are apprehending arrest in Crime 53/2020 registered with Manora Police Station, District-Washim for offences punishable under Sections 307, 323, 324, 504 and 506 read with Section 34 of the Indian Penal Code.

2. The alleged incident occurred on 26-1-2020. It is alleged that the applicants and two co-accused assaulted the father of the informant and when the informant intervened, he too was assaulted with sticks.

3. It appears that initially offences under Sections 323, 324, 504 and 506 read with Section 34 of the Indian Penal Code were registered. It was after more than nine months that Section 307 of the Indian Penal Code is invoked. The applicants and two co-accused apprehended arrest and sought pre-arrest protection from the Sessions Judge, which came to be rejected, as

regards the applicants.

4. A statement is made that after the registration of the crime, the applicants were summoned by the police and presumably since the offences then registered were bailable, no further action was taken.

5. The only reason for invoking Section 307 of the Indian Penal Code appears to be that the Investigating Officer asked the Medical Officer whether considering the injuries, offence punishable under Section 307 of the Indian Penal Code is made out. The Medical Officer gave guarded opinion and the Investigating Officer invoked Section 307 of the Indian Penal Code.

6. It is needless to state, that it is not for the doctor to opine whether *prima facie* offence punishable under Section 307 of the Indian Penal Code is made out. The doctor is no authority to opine whether there was an intention to cause death or cause such injury as would result in death in the ordinary course of nature.

7. Be that as it may, there are rival versions and cross reports. The seizure is already effected and no useful purpose shall be served by custodial interrogation.

8. The interim protection granted vide order dated 07-12-2020 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.

adgokar

JUDGE