

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

CRIMINAL APPLICATION (ABA) NO. 747 OF 2021

Diliprao s/o Keshawrao Kahurke

..vs..

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

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

Court's or Judge's orders

Shri M.P. Kariya, Advocate for applicant.
Shri A.R. Chutke, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATED : 23/11/2021

Heard.

2. In anticipation of arrest in Crime No.915 of 2021 registered with Hinganghat Police Station, District Wardha for the offence punishable under Sections 353, 294, 143, 144, 147, 148, 149, 506(2), and 379 of the Indian Penal Code and Sections 4 and 24 of the Arms Act, 1959, the applicant has prayed for pre-arrest protection.

3. It is the prosecution case that informant - Talathi came across that two tractors were illegally carrying sand, excavated from river bed. The Informant - Talathi accosted both tractors and on inquiry learnt that one of the tractor was owned by applicant Diliprao Kahurke. At that time, applicant - Dilip Kahurke came on the spot by riding on motorcycle and requested for release of tractor. He also threatened the informant and went away. Within short time, some persons including co-accused

Saurabh Timande arrived on the spot with weapons. Co-accused Saurabh Timande threatened the informant by showing sword and forcibly caused to take away both tractors. Since the occurrence took place while the informant (public servant) was discharging his official duty, the crime was registered.

4. The non-applicant/State resisted bail by filing affidavit-in-reply. It is contended that the applicant is the owner of one of the tractor and he had facilitated illegal excavation of sand. Having regard to the seriousness of the offence, the bail is prayed to be rejected.

5. The Police report indicates that the applicant had initially requested for release of tractors and then gave threats. The main allegations of abusing and giving threats on the point of sword, are against the co-accused Saurabh Timande. Moreover, it is alleged that co-accused Saurabh Timande has forcibly caused to take away the tractors. Whether the applicant had shared a common object, is a matter of trial. At this stage, besides arguing with the public servant, no further role is assigned to the applicant. Considering the nature of accusation, applicant's custodial interrogation is not required. In view of that applicant has made out a case for grant of pre-arrest protection, hence, the following order :

(a) The application stands allowed.

- (b) In the event of arrest applicant/accused Diliprao s/o Keshawrao Kahurke in connection with Crime No.915 of 2021 registered with Hinganghat Police Station, District Wardha for the offence punishable under Sections 353, 294, 143, 144, 147, 148, 149, 506(2), and 379 of the Indian Penal Code and Sections 4 and 24 of the Arms Act, 1959, he be released on bail on his furnishing P.R. bond of Rs.25,000/-, with one surety in the like amount.
- (c) The applicant/accused shall attend concerned Police Station on every Sunday in between 12.00 noon to 02.00 pm till filing of charge-sheet.
- (d) The applicants/accused 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

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