

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

CRIMINAL APPLICATION (ABA) NO. 73 OF 2022

Bablu S/o Krishnagopal Devnath and another

...Versus...

State of Maharashtra, through P.S.O., P.S. Chamorshi, Distt. Gadchiroli

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

Court's or Judge's orders

Shri R.R. Vyas, Advocate for applicants
Ms T.H. Udeshi, A.P.P. for respondent/State

CORAM : SURENDRA P TAVADE, J.

DATE : 09/02/2022

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. This is an application for pre arrest bail in Crime No. 385/2021, registered with Chamorshi Police Station, Distt. Gadchiroli, for the offence punishable under Section 338 read with Section 34 of the Indian Penal Code and Section 135 of the Electricity Act.

3. One Suranjan Mandal lodged a report on 31/08/2021, wherein he alleged that on 30/08/2021 at about 9.30 p.m. when he was returning to his house he received electric shock and he was thrown on the road. He lost his consciousness for some time. His body was shivering. Thereafter, within five minutes he got his consciousness. He

saw two to four persons who were approaching him. He raised shouts and saw them in torch light. He identified two persons out of the four persons, namely Bablu Krushnagopal Devnath, Dhiraj Khokan Sarkar. On seeing the informant the said persons ran away from the spot. It is alleged against the said persons that the said persons used to lay the wire on the road in order to poach the wild animals. Due to shock the applicant sustained injuries on both of his thighs. He called his wife, thereafter his brother took him to his house. He narrated the incident to the persons gathered there. Thereafter, he lodged report.

4. On the basis of the allegations made in the F.I.R. learned counsel for the applicant submits that applicants are no way concerned with the crime. They heard the shouts and they thought that there may be dacoits and therefore they ran away from the spot. He submits that applicants have no criminal antecedents. There is no material on record that the applicants had laid the wire on the road and connected it to the main electric service wire. It is contended that nothing is to be seized from the applicants. Similarly, applicants are not likely to abscond, therefore they pray for pre arrest bail. The notice of this application was served upon the prosecution.

5. The learned A.P.P. has filed reply, wherein the brief story of informant is narrated. It is contended that the applicants were present on the spot. The informant identified them in the light of torch. It is also submitted that the applicants ran away from the spot, it shows their complicity

in the present crime. It is contended that the offence is of serious in nature. The associates of applicants are absconding, therefore custodial interrogation of the applicants is required to reveal the real story of the incident.

6. Heard the learned counsel for the applicants and the learned A.P.P. on behalf of the non-applicant/State.

7. Perused the First Information Report.

8. It appears that when informant was returning home in the night, he received severe electric shock. He noticed that electric wire was laid on the road. Due to darkness, he could not see the wire, therefore, he received electric shock. He raised shouts. He saw the applicants approaching him but by seeing the informant, the applicants ran away. It appears that the applicants should have helped informant if they were not involved in the incident. But the applicants ran away from the spot, therefore, the informant thought that the wires were laid down by the applicants. There are allegations against the applicants that earlier also they had laid the wire in order to kill the animals. Even on going through the F.I.R., it appears that it is a doubt of informant that the wires were laid by the applicants. Except the said fear, prima facie, nothing is on record to establish that the wires were laid by the applicants. The investigation has already started, therefore, custodial interrogation of the applicants is not required. If the stringent conditions are imposed upon the applicants, it will suffice the

purpose of the investigation. Hence, I pass the following order:

(i) Application is allowed.

(ii) In the event of arrest of the applicant No.1 – Bablu S/o Krishnagopal Devnath and applicant No.2. - Dhiraj S/o Khokan Sarkar, applicants are ordered to be released on bail on their executing P.R. Bond of Rs.25,000/- each with one surety each in the like amount with a condition to attend Police Station every day between 10.00 a.m. to 12.00 noon from 11/02/2022 to 18/02/2022 and thereafter as and when called by the Investigating Officer.

(iii) The applicants are directed not to tamper with the prosecution witnesses/evidence, in any manner whatsoever.

(SURENDRA P. TAVADE, J.)

Jayashree..