

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

CRIMINAL APPLICATION (BA) NO.1243 OF 2021

Motilil @ Motilal s/o Baliram Kasedkar

Vs.

State of Maharashtra, through Police Station Officer, Dharni, Tq. Dharni,
Dist. Amravati

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

Court's or Judge's orders

Mr. K. P. Mahalle, Advocate for applicant.
Mr. S. M. Ghodeswar, APP for non-applicant.

CORAM : AVINASH G. GHAROTE, J.
DATE : 04/01/2022

Heard Mr. Mahalle, learned counsel for the
applicant.

2. The applicant has been arraigned for the offences punishable under Sections 302, 307, 147, 148, 149 and 188 of the Indian Penal Code and under Sections 4 and 25 of the Arms Act, in respect of an incident dated 07.07.2020, in which the applicant with as many as 16 other persons had lodged an assault on the complainant. The oral report specifically attributes assault by the applicant by way of an axe upon Suman Santosh Chimote, which was fended off by her, which action on her part has saved serious injury to her. Mr. Mahalle, learned counsel for the applicant submits that except for one single action, there is no other role attributed to the applicant, and therefore, the intention cannot be presumed. He also relies upon the injury report at record

page 86 to submit, that there is only a blunt trauma on right forearm.

3. I am unable to agree with the contention of Mr. Mahalle, learned counsel for the applicant, for the reason that not only the FIR attributes a specific action to the applicant of assaulting one of the complainants by way of an axe but same is also supported by the statement of Suman Santosh Chimote (pg.223). May be injury suffered by her is not serious, but that is clearly attributable to her action of fending off the blow administered by the applicant, and that by itself, cannot be a ground to accept that the applicant was not having intention to commit the offence, more so, when the presence of the applicant with 16 other persons, in the joint attack is not disputed. I therefore, do not see any merit in the application and the same is rejected.

JUDGE

Sarkate