

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

CRIMINAL APPLICATION (ABA) NO. 844 OF 2022

NIKHIL S/O SUNIL SHARMA

VS

STATE OF MAH. THR. PSO PS KHAMGAON (CITY) TQ.KHAMGAON DIST.BULDHANA

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

Court's or Judge's Orders.

Mr. N. R. Tekade, Advocate for applicant.
Mr. N. R. Rode, APP for respondent.

CORAM : ANIL L. PANSARE J.

DATE : 16/01/2023

The applicant is apprehending arrest in Crime No.524 of 2022, registered with Police Station Khamgaon (City), Tq. Khamgaon, Dist. Buldhana for the offence punishable under Sections 143, 146, 147, 148, 149, 324, 294, 323, 504 and 506 of Indian Penal Code.

2. Learned counsel for the applicant submits that the informant is running a country liquor shop, so also medical shop situated adjacent to applicant's house. According to the applicant, the customers used to consume country made liquor and urinate near the applicant's courtyard where the applicant used to tie his cows and buffaloes. It appears that

there occurred quarrel between the applicant and the informant on this count.

3. Learned counsel for the applicant further submits that the informant and his employees in the shop had assaulted the applicant with one base ball stick. Applicant sustained injury on head and was initially admitted to Government Hospital, Khamgaon and thereafter was brought to the Government Medical College and Hospital, Akola. This incident had occurred on 25/10/2022, the applicant's father has lodged FIR on the next day i.e. on 26/10/2022. The informant has also lodged FIR relating to same incident but on the same day i.e. on 25/10/2022, blaming applicant for the quarrel.

4. One of the allegations levelled against the applicant is that he demanded Rs.5000/- for not lodging complaint against liquor shop. Therefore, the offence under Section 384 of the IPC has been invoked against the applicant. Thus, it is argued that the root cause of offence, if any, is a quarrel between the parties. When inquired, learned counsel for the applicant submits that there are no criminal antecedents against the applicant. The applicant is residing in the self owned house and has strong roots in the locality.

5. Learned APP has opposed the application, mainly on the ground that there are allegation of extortion against the applicant and that investigation is in progress.

6. Considering the nature of allegations and keeping in mind that applicant has no criminal antecedents, the purpose of interrogation will be served, if the applicant is put to condition to attend the Police Station once in a week. The FIR came to be lodged on 25/10/2022. The applicant approached Sessions Court 31/10/2022, initially ad-interim relief was granted, however, the application came to be rejected vide order dated 24/11/2022. Thereafter, he approached this Court on 28/11/2022. The ad-interim protection was granted on 01/12/2022. The Investigating Officer thought it proper not to arrest the applicant during the period when he was not under protection. Even otherwise, the law is well settled that it is not necessary to arrest the accused in each and every case, the charge-sheet could be filed without arresting a person. The Investigating Officer should prefer such mode of investigation. Hence the following order :-

ORDER

(i) The application is allowed.

(ii) In the event of arrest in Crime No.524/2022 registered with Police Station, Khamgaon, District Buldhana for an offence punishable under Sections 452, 384, 324, 323, 294, 504 and 506 of IPC, applicant – Nikhil S/o. Sunil Sharma, be released on bail on he furnishing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend Police Station, Khamgaon, District Buldhana, on every Sunday between 11:00 a.m. to 01:00 p.m., till filing of the charge-sheet.

(iv) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and to the Court concerned and shall not change the residence till the final disposal of the case.

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to

dissuade him/her from disclosing such facts to the Court or any Police Officer.

(vi) The applicant shall not obstruct or hamper the police investigation and shall not play mischief with the evidence collected or yet to be collected by the Police.

(vii) The applicant shall maintain law and order.

(viii) The applicant shall regularly attend the court and co-operate the learned trial court to complete the trial for the above offence. The applicant shall not seek adjournments, except under extreme circumstances, to the satisfaction of the trial court.

(ix) In case of breach of any condition, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

7. The application is disposed of.

JUDGE