

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 5392 OF 2015

Prakash Arvind Chitroda,
R/o A 10, Home Court, Mohit Park,
Chala Vapi, Pardi, Capi I.E.,
Valsad, Gujrat

...Applicant

versus

The State of Maharashtra

...Respondent

.....

Mr. Ashok Mundargi, Senior Advocate i/b Mr. A. K. Bhosale, Advocate for
applicant
Mr. S. M. Ganachari, A. P. P. for respondent/State

.....

WITH

CRIMINAL APPLICATION NO. 5478 OF 2015

1. Chandan s/o Nagendra Singh,
R/o Room No. 20, Om Sai Construction,
Ranjangaon (S), Tq. Gangapur,
Dist. Aurangabad

2. Sonu S/o Rambrij Chavan,
R/o Kanedi, Tq. Fulpur,
Dist. Allahabad, Uttar Pradesh

...Applicants

versus

The State of Maharashtra

...Respondent

.....

Mr. Joydeep Chatterji, Advocate for applicants
Mr. S. M. Ganachari, A. P. P. for respondent/State

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CORAM : N.W. SAMBRE, J.

DATE : 13th OCTOBER, 2015

ORAL ORDER :

Heard.

2. The applicant herein surrendered on 08/09/2015, after rejection of his pre-arrest bail application in the last week of August 2015. The applicant was initially subjected to police custody remand and presently is in the magisterial custody.

3. The applicant is seeking regular bail in Crime No. I-45/2015 registered on 28/02/2015 with M.I.D.C., Waluj police station for an offence punishable under Sections 277, 278, 284, 308, 336 read with Section 34 of the Indian Penal Code.

3. The accusation against the present applicant is that he is owner of one of the Transport Companies, who give on hire/lease the vehicle for transportation of hazardous waste, which was discharged in one of the rivers adjoining city of Aurangabad.

4. So far as the case of the present applicant is concerned, he would urge that, though he was arrested on 08/09/2015, the chargesheet in the matter is not filed against him, however the chargesheet against the other contractors is already filed. In addition to above, he would urge that, but for the offence punishable under Section 308 of the Indian Penal Code, which is punishable for a

period of three years, rest of the offences under which the applicant is booked, are bailable. According to him, in view of the fact that, custodial interrogation of the applicant is already over and against other transporters the chargesheet is filed, it will be appropriate, in the fitness of the things, to release the applicant on regular bail.

5. So far as Criminal Application No. 5478/2015 is concerned, the applicants therein are drivers, who were arrested on 28/02/2015, against whom the chargesheet is filed.

6. So far as the applicants in the said application is concerned, the investigation is already completed.

7. While making out the case for a grant of regular bail, learned Senior Counsel for the applicant in Criminal Application No. 5392/2015 would urge that, pursuant to query raised by investigating agency to Maharashtra Pollution Control Board, the said Board has in turn informed that, hazardous waste in huge quantity is detrimental to the environment, however, no specific assertions in the said communication are made in relation to its adverse effect on human being. Apart from above, he would urge that, the applicant has shown his respect by voluntarily surrendering on 08/09/2015 after his pre-arrest bail application was withdrawn before this Court in the last

month of August 2015.

8. The other aspects of the matter, as are highlighted by the learned Senior Counsel for the applicant that, the offence, but for punishable under Section 308 of the Indian Penal Code, are bailable and even if it is presumed that, there is prima facie case against the present applicant for the offence punishable under Section 308 of the Indian Penal code, same is punishable at the most with three years imprisonment.

9. Learned A.P.P., while opposing the bail application, would urge that the applicant herein has avoided the process of law. According to him, the applicant being resident of Gujarat State will not be available for trial and looking to the serious nature of accusation against him, it will be appropriate to reject his application.

10. So far as Criminal Application No. 5478/2015 is concerned, the prayer for bail is opposed by learned A.P.P. on the ground that, the applicants therein, who were truck drivers, were arrested on the spot while committing the crime in question.

11. So far as the Criminal Application No. 5392/2015 is concerned, the fact remains that, the applicant is behind bars since

08/09/2015 and one of the contractors was released on bail, pursuant to the provisions of Section 167 of the Code of Criminal Procedure. It is also required to be noted that, after custodial interrogation of the applicant, he is in magisterial custody for period of a month and his further detention in the magisterial custody will be of hardly any assistance, particularly, having regard to the fact that, but for the offence of Section 308 of the Indian Penal Code, the other offences under which he is booked are bailable.

12. In view of above, it will be appropriate, in my opinion to order release of the applicant in Criminal Application No. 5392/2015, namely, Prakash Arvind Chitroda on bail.

The applicant Prakash Arvind Chitroda be released on bail, upon furnishing P.R. Bond of Rs. 25,000/- (Rs. Twenty Five thousand) with one surety in the like amount, in connection with the Crime No. I-45/2015 registered on 28/02/2015 with M.I.D.C., Waluj police station for offences punishable under Sections 277, 278, 284, 308, 336 read with 34 of the Indian Penal Code. He shall give undertaking to the learned Sessions Court, while executing the bail bond, that, he shall make himself available during the entire trial.

13 Criminal Application No. 5392/2015 stands allowed in above terms.

14. In Criminal Application No. 5478/2015, having regard to the above referred submissions made by the learned Counsel for the applicants, it is required to be noted that, the role attributed to the applicants, is that they were driving the vehicles, which were carrying chemical wastes, which was discharged in one of the rivers. Though the applicants were arrested on the spot and are detained since 28/02/2015, the chargesheet against them is already filed. But for the offence punishable under Section 308 of the Indian Penal Code, other offences are bailable and in my opinion, no fruitful purpose will be served by detaining the applicants during the trial.

15. In view of above, it will be appropriate, in my opinion to order release of the applicants on bail.

The applicants be released on bail, on each of them furnishing P.R. Bond of Rs. 15,000/- (Rs. Fifteen thousand) with one surety in the like amount, in connection with the Crime No. I-45/2015 registered on 28/02/2015 with M.I.D.C., Waluj police station for offence punishable under Sections 277, 278, 284, 308, 336 read with 34 of the Indian Penal Code. They

shall give undertaking to the learned Sessions Court while executing the bail bond that, they shall make themselves available during the entire trial.

16. Criminal Application No.5478/2015 stands allowed in above terms.

[N.W. SAMBRE, J.]