

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

Criminal Application [BA] No.149 of 2015

(Hemant Devendra Bhadke

vs.

The State of Maharashtra, through P.S.O. Ajani, District Nagpur)

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

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Court's or Judge's Orders

Mr. P.S. Dhenge, Advocate for the Applicant.

Mr. P.V. Bhoyar, Advocate for the Non-Applicant.

CORAM : PRASANNA B. VARALE, J.

DATE : MARCH 24, 2015.

Heard the learned Counsel for the applicant.

The applicant is before this Court seeking his enlargement on bail in connection with Crime No.19/2015, registered at Police Station Ajni, District Nagpur for the offences punishable under Section 392 read with Section 34 of the Indian Penal Code.

The learned Counsel for the applicant invited my attention to the report lodged at the instance of one Sanjay Sahare. The sum and substance of the report is, on 29/11/2014, when the complainant/informant reached his home, he was chased by two persons on motorcycle. By a threat of knife, these two persons removed mobile from the shirt pocket and wallet from the trouser of the informant/complainant. Cash amount and ATM Card of Bank

of India as well one Aadhar Card was the material in the wallet. The accused persons fled away from the spot on raising hue and cry. The people gathered there. The informant/complainant was unable to note the registration number of the motorbike. He could only give some details of appearance of these accused persons. The person, who was riding the motorbike, was a strong health person of 25 to 30 years of age of dark complexion and the pillion rider was of 20 to 25 years of age. On the very next day, when the informant/complainant had been to the bank to verify the account, he found that the amount of Rs.23,500/- was withdrawn from his account by using ATM Card.

The learned Counsel for the applicant submits that the applicant had approached the learned Sessions Judge seeking his enlargement on bail and the application of the applicant was rejected only on the grounds that he may tamper with the evidence and the offence is serious one. The learned Counsel for the applicant submits that though it is referred to that the identification period is conducted by the police station authority of Ajni, there is absolutely no material to suggest that the applicant was identified. The learned Counsel further submits that the only material against the applicant is in the form of statement of co-accused and the

alleged recovery on the backdrop of the statement of co-accused. The learned Counsel submits that this material is wholly insufficient to detain the applicant behind the bars for further indefinite period. He submits that as the material against the applicant itself is insufficient and shaky, the applicant be enlarged on bail.

Mr. Bhoyar, the learned A.P.P. opposes the application by relying on the reply filed by the State.

On perusal of the reply, though it is stated in the reply that some amount was withdrawn by using the ATM Card, there is no material to suggest whether any inquiry or investigation is conducted about that aspect of withdrawal of the amount using ATM Card. As rightly submitted by the learned Counsel by the applicant that the only material against the applicant is in the form of statement of co-accused.

Thus, considering the fact of the insufficient material against the applicant to establish any role of the applicant in connection with the crime, in my opinion, the learned Counsel for the applicant has made out a case for enlargement of the applicant on bail. The apprehension of the State can be taken care of by imposing certain conditions on the applicant.

In the result, the application is allowed. The applicant be released on bail on his furnishing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one or sureties in the like amount on the following conditions.

- i. The applicant to attend Police Station Ajni, District Nagpur on every second and forth Sunday of the month from 09:00 a.m. to 12:00 noon and maintain diary of his attendance duly countersigned by the Police Station Officer or the Investigating Officer, till commencement of the trial.
- ii. The applicant shall not tamper with the evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.
- iii. The applicant to submit his residential address and contact numbers, such as phone/mobiles numbers, to the investigating agency or in case of change.
- iv. In case the applicant is moving out of the area of Police Station Ajni, Nagpur, he shall take permission and inform the concerned Police Station about his visit to other place.

In case of any breach of the conditions by the applicant, the State would be at liberty to move this Court.

Needless to say that these are the observations of the Court while deciding the present bail application and the learned Sessions Judge may not be influenced by these observations while conducting the trial.

JUDGE

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