

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

**Criminal Writ Petition No.287 of 2015**

(Sudhindra Mohan Mathur

vs.

State of Maharashtra, through P.S.O. Sadar, 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

**CORAM : PRASANNA B. VARALE, J.**

**DATE : MARCH 27, 2015.**

Heard Mr. R.R. Vyas, the learned Counsel for the petitioner and Mr. M.J. Khan, the learned A.P.P. for the respondent/State.

As a very limited controversy is involved in the present petition, this petition can be disposed at the threshold considering the controversy and the legal position.

The petitioner, apprehending his arrest in connection with Crime No.89/2015, registered at Sadar Police Station, Nagpur on the basis of a complaint lodged by one Rajesh Jaiswal for the offences punishable under Section 420 read with Section 34 of the Indian Penal Code, filed an application seeking protection in the nature of pre-arrest bail under Section 438 of the Code of Criminal Procedure. The petitioner also filed an application for grant of ad interim anticipatory bail. The said applications were filed on 25<sup>th</sup> of

March, 2015. The learned District Judge-7, Nagpur passed the order, of which a copy is placed on record at Annexure-IV, which reads thus:

*“It is necessary to hear other side.*

*Issue notice to respondent on PF.”(i.e. On 25/3/2015)*

The learned Counsel for the petitioner submits that the course adopted by the learned District Judge is neither in consonance with the provisions nor with the view taken by this Court in a reported judgment in the matter of Ashik Rameshchandra Shah and others vs. State of Maharashtra reported in 2010 ALL MR (Cri) 2524. The learned Counsel then invited my attention to the order passed by this Court in Criminal Application No.1570 of 2010, wherein somewhat similar circumstances were brought to the notice of this Court. In the said application, the applicant had approached the learned Sessions Judge seeking anticipatory bail along with an application for ad interim protection, the prayer for ad interim protection was rejected by the learned Trial Judge by order dated 27/09/2010 and the application was posed for hearing on 05/10/2010. This Court, on the backdrop of this fact as well the judgment of this Court reported in 2010 ALL MR (Cri) 2524 in the matter of Ashik Rameshchandra Shah and others vs. State of Maharashtra and also on the backdrop of the fact that the learned A.P.P. though submitted that there is strong material

against the applicant, fairly admitted that the legal position as reflected in the judgment of this Court reported in 2010 ALL MR (Cri) 2524 and arrived at a conclusion that the applicant was entitled for interim protection till disposal of the application.

Thus, considering these aspects, in my opinion, the learned Counsel for the petitioner was justified in submitting that the course adopted by the learned District Judge, Nagpur is not in consonance with the view of the judgment of this Court reported in 2010 ALL MR (Cri) 2524. The petition can be disposed of on the backdrop of this fact directing the learned District Judge-7 to hear and dispose the application filed by the applicant seeking *ad interim* protection by filing application for grant of ad interim anticipatory bail on or before 1<sup>st</sup> of April, 2015. Till then no coercive action be taken against the applicant. The application is disposed of in above terms.

The learned A.P.P. to communicate this order to the Sadar Police Station, Nagpur, as well the applicant also to immediately inform this order to Sadar Police Station in connection with Crime No.89/2015 registered at the instance of Rajesh Jaiswal.

Authenticated copy of this order be supplied to the learned Counsel appearing for the parties to act upon.

**JUDGE**