

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

**Criminal Application (BA) No. 451 of 2015**

(Ahtesham Ali S/o Shahid Ali Vs. State of Mah. through P.S.O. of P.S.  
Pandharkawda, Yavatmal)

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Shri A. A. Naik, Advocate for the applicant  
Mrs. K. R. Deshpande, APP for the State

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

**DATE : 28-7-2015.**

Heard learned counsel Shri Naik for the applicant and learned Additional Public Prosecutor Mrs. Deshpande for the State/non-applicant.

The applicant is before this Court seeking his enlargement on bail in connection with Crime No. 29/2015 registered at Police Station Pandharkawda, District Yavatmal for the offences punishable under Section 392 read with Section 34 of the Indian Penal Code.

The report lodged at the instance of one Sanjay Lohkare reveals that he was working as Salesman at the relevant time in a jewellery shop. The employer was assigning the duty of collecting the material and making the payments from various

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places. It was a routine for Sanjay to travel with cash amount to the tune of Rupees Ten Lacs to Fifteen Lacs on such occasions. On 14-2-2015, cash amount of Rupees Thirty Five Lacs was handed over to Sanjay to deliver the same to one Jeweller at Hyderabad along with some amount for traveling. Accordingly, while Sanjay was proceeding towards Hyderabad by a State Transport bus and while the bus stopped at Pandharkawda at a hotel for dinner, two unknown persons snatched the bag in which the amount and gold articles were kept and started running towards the road heading Pandharkawda. Sanjay shouted and started chasing these two unknown persons. Other passengers also followed him. These two unknown persons disappeared for some time and a lady standing on the terrace of the house informed that a person entered in front of her house which is partially constructed. When Sanjay entered in the house, he found somebody hidden in the house and was pointing out an article like weapon to him. People who were also chasing and following Sanjay entered in the house and found a person having a

bag on his shoulders. That person was apprehended. On enquiry, he informed about his name and resident i.e. the applicant. Cash amount to the tune of Rupees Thirty Five Lacs was found in that bag. On lodging the report, investigation was carried out and statements of the witnesses were recorded.

Shri Naik, learned counsel for the applicant submits that the applicant who is resident of Hyderabad was also traveling on the very day and in an unfortunate incident, a bag found on his shoulder, he was misunderstood as one of those thieves. Shri Naik submits that in the report itself, it is submitted that these two persons who were chased by Sanjay and other persons disappeared for sometime and on information by a lady, Sanjay and other travelers entered in the house. Shri Naik submits that the applicant was one of these travelers who made attempt to nab the real thief, but one of the those thieves threw the bag to the applicant and the people chased him along with Sanjay and misunderstood the applicant as a thief. Shri Naik submits that apart from the material collected by the

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investigating agency being insufficient to establish any crime committed by the applicant, the other major ground on which the applicant pray his enlargement on bail is his academic career. Shri Naik submits that the applicant was prosecuting his studies at the relevant time, when his arrest was effected, in MBA course at Osmania University, Hyderabad. He submits that though the applicant hails from a poor family, he was a bright student. Shri Naik submits that under the orders of this court, the applicant was permitted to attend the examination of 4<sup>th</sup> Semester of MBA course. Shri Naik, by placing on record the copy of the mark-sheet of the applicant, submitted that the applicant secured good marks in the 4<sup>th</sup> Semester of MBA. Shri Naik submits that as the necessary material was collected by the investigating agency and there is nothing to be recovered now, keeping the applicant behind the bar for further indefinite period would not only cause serious prejudice to the academic career of the applicant but also obstruct in getting good employment to support his family. She Naik

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submits that it is the story reflected in the report that in the bag apart from cash amount, there were certain ornaments, but when the bag was allegedly found, bag contained cash amount, as such there is every possibility of somebody else who is prime accused and the applicant is falsely implicated. Shri Naik submits that the applicant is ready to abide by any condition imposed upon him.

Learned Additional Public Prosecutor opposes the application by submitting that the applicant was found on the spot and was apprehended by Sanjay and other people red handed.

On consideration of the material, I find merit in the submissions of learned counsel Shri Naik. It is also not disputed that the applicant is permitted to prosecute his studies and he appeared for 4<sup>th</sup> Semester of MBA course. Perusal of the mark-sheet shows that the applicant has secured good marks in the written examination but also done fairly well in viva-voce. His performance shown in viva-voce is of excellent grade. The record shows that the applicant appeared for the exam while he was on temporary

bail and the applicant secured good marks in the written examination. There is nothing on record to show that the applicant is having any criminal antecedent to discredit him. There is merit in the submission of the learned counsel that instead of prohibiting the applicant from prosecuting his academic career or from making attempts for gaining good employment to support his family, keeping the applicant behind bars for indefinite period would serve no purpose. Considering these aspects, in my opinion, learned counsel for the applicant has made out the case for enlargement of the applicant on bail. The apprehension of the State can be taken care of by imposing conditions, including the condition that the applicant to reside away from Pandharkawda City. In the result, the application is allowed.

The applicant be released on bail on furnishing P.R. bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in the like amount, on the following conditions.

a] The applicant to cooperate with the investigating agency and to attend the Yavatmal City

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Police Station on every 1<sup>st</sup> and 3<sup>rd</sup> Sunday between 9.00 a.m. to 12.00 noon.

b] The applicant shall not enter Pandharkawda City except only for the purposes of the trial.

c] The applicant to give details of his two relatives i.e. one from Yavatmal and other from Nagpur to the Police Station authorities of Yavatmal City.

d] The applicant shall not tamper with the prosecution evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.

In case of breach of these conditions, the prosecution agency to take necessary steps in accordance with the provisions of law.

**JUDGE**

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