

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

CRIMINAL APPLICATION (ABA) NO. 386 OF 2015

(Anil Shamsundar Agre Vs. The State of Maharashtra through P.S.O., Kalamna, Nagpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Mahesh Rai, Advocate for the applicant.
Shri T.A. Mirza, A.P.P. for the State.
Shri A. A. Naik, Advocate for the intervenor.

CORAM : A. B. CHAUDHARI, J.
: 07 DECEMBER, 2015

Heard.

Learned A.P.P. for the State has raised preliminary objection stating that Criminal Application (APL) No. 420 of 2015 decided on 13/7/2015 filed by the present applicant for quashing of first information report in question was not entertained by the Division Bench of this Court in an application under Section 482 of Criminal Procedure Code. He, therefore, submits that the present application for grant of bail under Section 482 of Cr. P.C. may not be maintainable.

I, however, find that the criminal application under Section 482 Cr. P. C. that was invoked by the present applicant was for quashing of the FIR and not for seeking bail, as such, in accordance with the inherent powers, recognized by the Apex Court as well to grant bail, the jurisdiction of the Single Judge is not affected. The objection is not acceptable.

The next question is about grant of bail on the merits of the matter. It appears that the applicant is engaged in transportation of sand business while respondent No.3-Regional Transport Officer was entrusted the job of checking of overloaded trucks with sand. It is also not in dispute that there are petitions filed against respondent No.3-Regional Transport Officer in this Court for his alleged acts of corruption and disproportionate assets or wealth. But, then that does not make any difference insofar as the present FIR is concerned in which there are allegations about abuses in the name of caste, etc. Nonetheless, it is not possible for this Court to ignore the fact that the applicant is a transporter of sand while respondent No.3 is duty bound to check overloaded trucks of sand. Looking to the activities of both, the applicant and respondent No.3-Regional Transport Officer, it will be appropriate that the officer, higher in rank, should conduct a preliminary enquiry contemplated by *Lalita Kumari's* case since the investigation is being conducted from May, 2015. In that view of the matter, I make the following order.:

ORDER

II) The applicant shall appear before the High rank police officer deputed in this case and cooperate with the investigation.

III) The officer shall come to the conclusion upon conducting preliminary enquiry and thereafter take decision as to the necessity of arrest of the applicant, etc. for the offence in question by giving one week's notice for arrest to the applicant.

I) Criminal application (ABA) No. 386 of 2015 is disposed of accordingly.

JUDGE