

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

Criminal Application [APPLN] No.127 of 2014

(Ghanshyam Gyasi Jatav and others

vs.

The State of Maharashtra, through P.S.O. Ladkhad, Tah. Darwha, District Yavatmal)

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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 : JANUARY 19, 2015.

Heard Mr. D.I. Jain, the learned Counsel for the applicants and Mr. P.V. Bhoyar, the learned A.P.P. for the non-applicant/State.

The learned Counsel for the applicants submits that the application is being pressed for applicant nos.1 and 2, and as per the instructions received by him, the other applicants namely applicant nos.3, 4 and 5 have complied with the order passed by the learned Additional Sessions Judge, Darwha, District Yavatmal dated 11/09/2014. The learned Counsel for the applicants submits that the applicants were arrested by the Police Station Authority of Ladkhad Police Station on 14/03/2014 and Crime No.53/2014 was registered for the offence punishable under Section 379 read with Section 34 of the Indian Penal Code. The learned Counsel for the applicants submits that the applicants approached the learned Sessions

Judge for their enlargement on bail. The learned Sessions Judge, on considering the merits and on perusal of the material collected by the investigating agency, observed that as the investigation is nearly completed and the custodial interrogation of the applicant is not necessary, allowed the application. The learned Counsel, by inviting my attention to the order passed by the learned Sessions Judge, submits that certain conditions were imposed while allowing the application. He submits that the applicants were and are ready to comply with the condition nos. (ii), (iv) and (v), which reads thus :

(ii) The applicants be released on bail on execution of P.R. Bond of Rs.25,000/- each with local solvent sureties of like amount.

(iv) The learned Magistrate is requested to expedite the trial and conclude it as early as possible.

(v) Hamdast allowed.

The learned Counsel further submits that condition no.(iii) i.e. the applicants shall deposit cash security of rupees one lakh each, is the harsh condition. He further submits that the applicants are the labourer and raising the cash security of Rs.1.00 lakh each is not only difficult, but as good as an impossible task for them. He then submits that by imposing such harsh condition, at one hand, the learned Sessions Judge though allowed the prayer of the applicants, on the other hand

curtailed the liberty. He also submits that the learned Sessions Judge, though observed that the applicants are having roots in the society, but for the reason that they are residents of Gwalior, the State of Madhya Pradesh and their presence cannot be easily secured, imposed such harsh condition of depositing the cash security of Rs.1.00 lakh each. The learned Counsel further submits that the condition of depositing the cash security itself is as contrary to the observations of the learned Sessions Judge. He submits that the learned Sessions Judge on one hand, observed that the applicants being residents of Gwalior (M.P.) and their presence cannot be easily secured cannot be a ground for rejecting the bail application, but imposes condition of cash security of Rs.1.00 Lakh each. The learned Counsel, therefore, prays for modification of condition no.(iii) suitably.

The learned A.P.P. vehemently opposes the application. The learned A.P.P. invited my attention to the reply filed by the State. The learned A.P.P. further submits that similar type of offences are registered in the State of Madhya Pradesh and one of the accused in Crime No.53/2014 is an absconding accused.

Considering the above referred aspects, in my opinion, merely because one of the accused is absconding cannot be a reason for denying the liberty to these applicants, who were already granted liberty by order dated 11/09/2014 observing

that all the necessary material of investigation is collected. The learned Additional Sessions Judge also thought it fit to request the Magistrate to expedite the trial and conclude it as early as possible. The learned Sessions Judge by condition no.(ii) ordered that the applicants be released on bail on execution of P.R. Bond of Rs.25,000/- each with local solvent sureties of the like amount, thus there is a considerable merit in the submission of the learned Counsel for the applicants that condition no.(iii) asking the applicants to deposit cash security of Rs.1.00 Lakh each is a harsh condition. There is also considerable merits in the submission of the learned Counsel for the applicants that though not admitting, but assuming the allegations reflected in the report, the stolen material would be at the most worth of Rs.5,40,000/- as per the complainant himself. The learned Counsel for the applicants has made out a case. In my opinion, the ends of justice can be met with by modifying condition no. (iii). The applicants being labourer and earning their livelihood by doing labour work, in my opinion, condition no.(iii) can be modified to the extent that the applicants shall deposit cash security of Rs.25,000/- (Rupees Twenty Five Thousand Only) each. There shall be no change in the other conditions of the order passed by the learned Additional Sessions Judge, Darwha, District Yavatmal, dated 11/09/2014.

The application is thus allowed to the effect that the order of the learned Sessions Judge dated 11/09/2014 is modified. As far as condition no.(iii) is concerned, the applicants shall deposit cash security of Rs.25,000/- (Rupees Twenty Five Thousand Only) each in stead of direction of the learned Sessions Judge of depositing cash security of Rs.1,00,000/- each.

The application is disposed of in above terms.

JUDGE

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