

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1037 OF 2016

Sunil Malhari Wagh,
Age: 23 years, Occu: Service,
R/o. Kedgaon, Ahmednagar,
Taluka and District Ahmednagar

...Applicant

versus

The State of Maharashtra,
Through Pathardi Police Station,
Pathardi, District Ahmednagar

...Respondent

.....
Mr. S. S. Jadhavar, Advocate for applicant
Mr. S. P. Sonpawale, A.P.P. for respondent
.....

CORAM : N.W. SAMBRE, J.

DATE : 24th FEBRUARY, 2016

ORAL ORDER :

The applicant is seeking pre-arrest bail in connection with Crime No. 27 of 2016 registered with Pathardi Police Station, District Ahmednagar for the offence punishable under Sections 381, 407, 409 and 420 of Indian Penal Code for alleged incident from 09/01/2016 to 16/01/2016.

2. The applicant, public servant, was working as Conductor with the State Transport Corporation and was allotted electronic ticket vending machine bearing serial No. 44.

3. While discharging his public duty, flying squad noticed that the applicant was in possession of one more ticket vending machine bearing serial No. 24 from which he was issuing tickets to the passengers, whereas machine No. 44 which was issued to him officially from the depot was put by him in his baggage. The ticket vending machine No. 24 was never officially issued to the present applicant, but was issued to another Conductor by name Sachin Vishnu Andhale. During raid by squad, it was noted that the applicant was using Machine No. 24, which according to the prosecution, was claimed to have been stolen by the applicant and from which tickets were issued to passengers after collecting fair for his personal benefit.

4. In this background, the above referred offence came to be registered against him.

5. While trying to make out a case for grant of bail, Mr. Jadhavar, learned Counsel for the applicant would strenuously urge that it is out of mistake that the applicant, public servant was carrying two ticket vending machines at the same time. He would then urge that intention and object of the applicant was to perform his official duty and not to play any fraud. He would then urge that he being

public servant, the machine is already recovered from him, nothing more is to be recovered and as such, he is entitled for pre-arrest bail.

6. Learned A.P.P. while strenuously opposing the application would urge that an intention of the applicant to commit fraud by operating machine which was stolen by him is apparent as there was no misconception or misunderstanding about illegally possession of ticket vending machine. He would submit that the applicant was found to be in possession of two machines i.e. Serial No. 24 and Serial No. 44 while discharging his duty though he was not entitled to use in law machine Serial No. 24.

7. He would then urge that custodial interrogation of the applicant is necessary to find out as to how the applicant has gain custody, since when he is operating machine No. 24 and has earned illegal amount of the same from various passengers by practicing fraud on statutory Corporation.

8. Having bestowed my thought to the submissions made and upon perusal of the investigation papers, it is required to be noted that intention of the applicant to commit crime in question is apparent from the fact that he was in possession of both ticket vending machines Serial No. 24 to which he was never allotted and

Serial No. 44 which he was officially allotted. The applicant was vending tickets to the passengers from vending machine No. 24 and was not operating vending machine No. 44 which was lawfully issued to him. The said act on the part of present applicant depicts his criminal intention to commit crime in question. The reasons as are narrated, particularly in the background of what has been stated in the first information report qua criminal intention of the applicant, in my opinion, necessitates rejection of bail, as custodial interrogation of the applicant is necessary so as to trace out the source of machine dates of commission of fraud and amount involved. In this background, the application fails, stands rejected.

[N.W. SAMBRE, J.]