

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

CRIMINAL APPLICATION NO. 07 OF 2016

(MOTIRAM RUNJAJI INGALE....VS..STATE OF MAH. THR. PSO PS DAHIHANDA & ANR.)

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

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : APRIL 13, 2016.

Heard Shri G.G.Mishra, advocate for the applicant, Shri A.B.Moon, advocate for the non-applicant No.2 and Shri K.R.Lule, A.P.P. for the non-applicant No.1.

The applicant has filed this application under Section 439(2) of the Code of Criminal Procedure praying that the order passed by the Sessions Court on 5th February, 2016 granting pre-arrest bail to the non-applicant No.2 be set aside and the pre-arrest bail granted to the non-applicant No.2 be cancelled.

It is submitted that the Sessions Court has not considered the material on record which shows the involvement of the non-applicant No.2 in the crime. Relying on the judgment given in the case of *Puran Vs. Rambilas*, reported in **AIR 2001 SC 2023**, it is submitted that the failure on the part of the Sessions Court to consider the material against the non-applicant No.2-accused while considering the application for grant of pre-arrest bail, vitiates the order.

The learned advocate for the applicant has relied on the fact that Criminal Application (BA) No. 97 of 2016 filed by co-accused Purushottam Shriram Satote and another was withdrawn by them as this Court was not inclined to grant bail. It is prayed that the application be allowed and the pre-arrest bail granted to the non-applicant No.2 be cancelled.

Shri A.B.Moon, learned advocate for the non-applicant No.2 has submitted that the investigation is complete and the charge-sheet is filed on 4th April, 2016. It is submitted that the applicant or the non-applicant No.1 has not come up with any grievance that the non-applicant No.2 has misused the liberty. In these facts, it is prayed that the application be rejected.

The non-applicant No.1 has filed the reply and has submitted that the applicant could not have been granted pre-arrest bail considering the seriousness of the allegations and the nature of the offence.

Though the applicant and the non-applicant No.1 have submitted that the order passed by the Sessions Court is not proper, they have not been able to show that the custody of the non-applicant No.2 is required for further investigation or that the non-applicant No.2 has misused the liberty after he is granted pre-arrest bail.

In view of the above facts, I am not inclined to grant the prayer made in the application. The application is **dismissed**.

JUDGE