

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

CRIMINAL APPLICATION (ABA) NO. 400 OF 2016

(Mohd. Latif Hafiz Ansari Vs. The State of Maharashtra)

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

Court's or Judge's orders

Shri R. K. Tiwari, Advocate for the applicants.
Shri S. J. Kadu, A.P.P. for the State.

CORAM : S. B. SHUKRE, J.

DATED : AUGUST 11, 2016

Heard learned Counsel for the applicant and
the learned A.P.P. for the State.

It is the contention of the learned Counsel for
the applicant that nothing is to be recovered from this
applicant as the sand in question has already been
seized. He further submits that the applicant has also
paid penalty for transporting of sand and, therefore, the
applicant deserves to be granted anticipatory bail.

He further submits that the applicant was not
personally present at the spot and if the driver has done
something wrong behind his back and without his
authority, the applicant cannot be held responsible for
the same. He also submits that similar crime, which is
registered against this applicant subsequent to grant of
interim protection to him, has been done only with an

ulterior motive only to frustrate this application. He also submits that registration of offence under the provisions of MCOC Act in a case like this, is not permissible in law and admittedly no violence is involved in this case. He also submits that so far as the previous offences are concerned, in most of those offences, this applicant has been acquitted and even if some cases are pending, those cases arise out of some grudge that the police officers are holding against this applicant.

Learned A.P.P. submits that the previous and the subsequent conduct of this applicant is such that he does not deserve any protection of law and if it is granted to him, there is every likelihood of this applicant misusing the same. He submits that many of the crimes registered against this applicant previously are still pending for final disposal and many of them are similar to the present crime. He submits that even if the penalty has been paid, the offence which is registered against this applicant is independent, wrong and has been prima facie committed by him and so payment of penalty should not have any bearing upon the merits of this application. He further submits that the registration of the offence under the provisions of MCOC Act is not only

as a result of registration of the crime in this case against the applicant but several other crimes committed by this applicant have been taken into consideration for the same.

Upon consideration of the case-diary and the reply of the prosecution, I find that although nothing has remained to be seized from this applicant, the conduct of this applicant is such that if he is granted interim protection, there is reason to believe that the applicant might misuse it. From the crime chart presented to this Court by the learned A.P.P., one can see that several similar crimes were registered in the past against this applicant and some of them are still pending. This applicant has been granted interim protection on 24/6/2016 and thereafter on 01/7/2016 this applicant got himself involved in a similar crime. The argument that it was done deliberately by the concerned police station would have to be considered only on the merits of that case. For the present, the registration of offence subsequently to the grant of interim protection of this applicant would have to be seen as a serious matter and would certainly reflect upon the conduct of this applicant, in the sense that this applicant has not taken

enough care and has not shown sufficient responsibility in conducting himself in a manner as to avoid his involvement in any further crimes. Then, previously also, similar crimes were registered against him, which are pending. Therefore, I am of the view that this applicant cannot be trusted for his good conduct, if any interim protection is granted to him. On this ground alone, this application deserves to be rejected.

Having observed so, I do not think it necessary to consider the aspect of registration of MCOOC offence against the present applicant with the ground which has primarily weighed with me for disallowing this application having been different and has been elaborately stated in the earlier paragraph.

The application, therefore, rejected.

JUDGE

CERTIFICATE

“I certify that this order uploaded is a true
and correct copy of original signed order.”

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