

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

CRIMINAL APPLICATION (ABA) NO. 449 OF 2016

(Ramvilas Gokulprasad Jharaniya Vs. The State of Maharashtra)

AND

CRIMINAL APPLICATION (ABA) NO. 456 OF 2016

(Gopal Harvilas Joshi & another Vs. The State of Maharashtra)

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

Court's or Judge's orders

Smt. Mrinal Hiwase, Advocate for the applicants.
Smt. M. H. Deshmukh, A.P.P. for the State.

CORAM : S. B. SHUKRE, J.

DATED : 08 AUGUST, 2016

Heard.

The allegation is that the applicant in criminal application (ABA) No. 449/2016, being in-charge of the Parcel Van of Railway Mail Service as an employee of the Postal Department, was hand in glove with the other employees of the Postal Department (the applicants in criminal application (ABA) No. 456/2016), who were also present on duty at the relevant time, when various parcels were being carried by the Parcel Van for their being delivered to the addressees, tampered with some of the parcels and removed some valuable articles from them. The case diary shows that at the relevant time applicant Ramvilas was in-charge of the parcels and when the tampering was noticed and the parcels were checked,

some of the articles were found to be missing for which this applicant could not explain anything. From the co-accused of this applicant, some tools as well as some stationary articles have been recovered, which according to the investigating officer, were intended to be used for re-sealing the parcels after pilferage was done. It is also the case of the prosecution that several complaints regarding tampering with the parcels of the Railway Mail Service by its employees, while being transported from one station to another were being regularly received and that was the reason why surprise check was conducted and the misdeeds were noticed at the place where the applicant was holding the charge of the parcels. Such being the case of the prosecution, detailed investigation would be necessary for which purpose custodial interrogation of these applicants may also be required. There could be many other similar crimes, which may have been committed in the past in respect of which investigation would be necessary. Therefore, this is not a fit case for grant of anticipatory bail to the applicants.

Learned Counsel for the applicant submits that as per the definition given in Section 2(d) of the Railway Property (Unlawful Possession) Act, 1966, the goods in charge or possession of Railway

Administration are to be considered as railway property and, therefore, the G.R.P. would not have any jurisdiction to investigate the offence committed in respect of the railway property and only the Railway Protection Force could make such an investigation.

Learned A.P.P. for the State submits that the parcels were never placed in the charge or possession of the Railway Administration as they were being carried by a special parcel van placed under the charge of the Railway Mail Service of the Postal Department in as much as the applicants themselves were the postal employees.

The argument of the learned Counsel for the applicants cannot be accepted for the simple reason that the applicants were never the employees of the railway and, therefore, there would be no question of placing the articles or the parcels under the charge or in possession of railway administration.

Learned Counsel for the applicants has placed reliance on the case of *Arnesh Kumar Vs. State of Bihar & another* [2014 AIR (SC) 2756]. Needless to say, guide-lines laid down in this case would have to be followed by the investigating officer. Learned Counsel, relying upon the cases of *Smt. N. N.*

Shashikala Vs. State of Karnataka [Crl. P. No. 7260/2013 – High Court of Karnataka], *Rajesh Paswan @ Rajesh Kumar s/o Dhurkheli Paswan Vs. The State of Bihar & another* [Cri. Misc. No.2635 of 2015 – Patna High Court] and *Wakil Singh Vs. The State of Bihar* [Cri. Misc. No. 7963 of 2016 – Patna High Court] has also submitted that the applicants are the Government servants, who are not likely to flee from the course of justice. She further submits that the applicants are ready to abide by the conditions imposed while granting anticipatory bail and also because of the fact that no perceptible injury has been caused to the complainant, the applicants deserve to be granted anticipatory bail.

The argument cannot be accepted for the reason that the complaint has been filed on behalf of the State and the injury caused to the society in this case is more than obvious and custodial interrogation of the applicants has been found to be necessary for effective investigation. Therefore, the cases cited would not help the applicants in any case.

The applications stand rejected.

JUDGE

CERTIFICATE

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