

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

CRIMINAL APPLICATION (APPP) NO.1775 OF 2016

IN

CRIMINAL APPLICATION (ABA) NO.502 OF 2016

(Dr. Avinash s/o Manohar Warjurkar and another ..vs.. State of Maharashtra, through PSO, PS
Bhandara, District Bhandara)

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

Court's or Judge's orders

Ms. A.D. Warjukar, Advocate for applicants,
Shri N.B. Jawade, Addl.P.P. for non-applicant,
Ms. A.P. Gupta, Advocate h/f. Shri J.M. Gandhi, Advocate for the
intervenor.

CORAM : P.N. DESHMUKH, J.

DATED : 15-12-2016

Heard Ms. A.D. Warjukar, learned Counsel for applicants, Shri N.B. Jawade, learned Additional Public Prosecutor for non-applicant and Ms. A.P. Gupta, learned Advocate holding for Shri J.M. Gandhi, Advocate for intervenor.

By this application, applicant involved in offence punishable under Sections 366, 376(n), 323, 504, 506 and 341 of Indian Penal Code read with 3/25 of Indian Arms Act and is on bail as per the order passed by this Court on 28-09-2016, has applied for relaxation of condition imposed upon him to stay out of limits of Nagpur city till filing of charge-sheet.

Learned Counsel for applicant has contended that

applicant is required to enter limits of Nagpur city to attend three consecutive marriages of his relations, one being of his wife's real niece Ku. Janhavi Sanjay Chimurkar scheduled on 18-12-2016, second marriage of his niece namely Sneha Murkute to be solemnized on 17-12-2016 and third marriage of daughter of his associates Ku. Roshani Wadettiwar to be held on 20-12-2016. The application is supported with copies of invitation cards of above marriages to be held on above period.

It is also case of applicant that prior to this application, applicant was granted permission to enter Nagpur city to attend marriage of his brother by order dated 08-11-2016 and it is no case of prosecution while such liberty was granted to applicant while relaxation of condition, he has misused the same.

Learned Additional Public Prosecutor for non-applicant and learned Counsel for the intervenor have opposed the application. Learned Counsel for intervenor has contended that applicant on being released on bail by order dated 28-09-2016, though was directed to mark his attendance to concerned police station for a period of one week between 11-00 a.m. to 12-00 noon from 04-10-2016, has not complied with the same. Learned Additional Public Prosecutor, however, on specific query put to him has submitted that this applicant though not

attended from 04-10-2016, he had complied said order by attending Investigating Officer for a period of one week. Another ground put forth opposing application is failure of applicant to furnish his address within three days from the date of passing of order, however, it is admitted that applicant has subsequently submitted his address. The only contravention as such appears to be that applicant failed to attend the Investigating Officer for a week from 04-10-2016 and that he has failed to comply to furnish his address within three days. Though applicant appears to have not complied with said condition within the stipulated period, admittedly he has complied with same may be little latter. In any event fact remains that applicant has complied with such order.

On perusal of condition of (iv) of the order dated 28-09-2016 by this Court, it is noted that Court has imposed condition upon applicant to not to reside in Nagpur, till filing of charge-sheet as it was informed by Investigating Officer at that time that the charge-sheet was likely to be filed within a period of one month.

In that view of the matter, it is found that this Court while imposing condition as aforesaid had calculated period of about one month i.e. 28-10-2016 during which period applicant was directed not to enter Nagpur city. Admittedly no charge-sheet is filed till

today. Today learned Additional Public Prosecutor, on instructions, made statement that charge-sheet is likely to be filed within two weeks from today.

In that view of the matter, as applicant was earlier granted relaxation of condition on similar ground to attend marriage of his family, application is liable to be allowed as per order below.

Order

- (i) Condition imposed upon applicant vide Clause (iv) of order dated 28-09-2016 stands relaxed so as to enable applicant to enter Nagpur city to attend marriage of his relations between the period from 15-12-2016 to 18-12-2016 and subsequently to attend the marriage of his associate's daughter on 20-12-2016.
- (ii) Applicant while in Nagpur shall mark his presence at Nandanvan Police Station, Nagpur between 8-00 a.m. to 9-00 a.m.

Application is accordingly disposed of as allowed in above terms.

JUDGE