

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

CRIMINAL APPLICATION (ABA) NO.25 OF 2017
(Nitin s/o Kesharao Hiwase vs. State of Maharashtra)

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

Shri C.A. Babrekar, Advocate for applicant.
Shri S. Sirpurkar, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : FEBRUARY 6, 2017

This application is filed by applicant for anticipatory bail in Crime No.305/2016 registered under Sections 294 and 323 of Indian Penal Code and Section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Heard learned Counsel for both sides.

It is submitted on behalf of applicant that applicant is owner of hotel of which day to day affairs are looked after by his wife due to his ill health. Accordingly, on 7/9/2016, applicant's wife Vijaya along with applicant visited hotel in night hours and they found that during three months period, sale was to the extent of Rs.2,50,000/-. Said amount was found by Vijaya as well as applicant on checking accounts from the computer. However, on their enquiring from complainant Rajkumar, who is working as Manager of the hotel, he informed that there was very less sale and

it was only to the extent of Rs.14,000/-. Therefore, applicant's wife lodged report with Police Station, Nandgaonpeth, Amravati against complainant Rajkumar. It is submitted that due to lodging of such report, complaint came to be lodged by complainant Rajkumar against applicant falsely, on the basis of which offence is registered on the following day, i.e. on 9/9/2016 as aforesaid.

Shri Sirpurkar, learned Additional Public Prosecutor for respondent, has submitted that as per instructions received, no such report was submitted by Vijaya on 8/9/2016. However, there appears no substance in this submission as applicant in support of his application, has placed on record documents. One such document is complaint by Vijaya, dated 8/9/2016 bearing acknowledgment of Police Station, Nandgaonpeth, Amravati vide station diary entry No.4/16 dated 8/9/2016 at 1.06 hours. From this report dated 8/9/2016, fact as put forth on behalf of applicant of incident involving complainant in hotel on 7/9/2016 is prima facie found established and merely because applicant and his wife enquired from complainant Rajkumar being Manager of their hotel about the hotel's income, false complaint appears to have been lodged by complainant Rajkumar. In that view of the matter, interim order passed by this Court is liable to be confirmed as per order below :

Interim order dated 17/1/2017 passed by this Court is confirmed on the same terms and conditions. Applicant shall attend Investigating Officer if

called, till filing of charge-sheet. The criminal application is accordingly allowed.

JUDGE

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