

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

CRIMINAL APPLICATION (APPLN) NO.5/2017

Kavishwar Badribhau Raut ..vs.. State of Maharashtra, thr. PSO P. S. Civil Lines, Akola and anr.

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

Court's or Judge's orders.

Mr. A. R. Deshpande, Advocate for applicant.

Mrs. M. H. Deshmukh, A.P.P. for non applicant no.1.

CORAM : V.M. DESHPANDE, J.

DATED : JUNE 16, 2017

Mr. A. R. Deshpande, Advocate for applicant and Mrs. M. H. Deshmukh, A.P.P. for non applicant no.1. None appears for the non applicant no.2, though served.

By the present application, the order passed by an learned Sessions Judge, Akola dated 07.01.2017 in other Misc. Criminal Application No.97/2016 by which the learned Sessions Judge rejected the application filed on behalf of the present applicant under Section 408 of Cr. P. C.

According to Mr. Deshpande, the applicant was granted anticipatory bail by the learned Sessions Judge on 17.03.2016 in connection with Crime No.19/2016 registered with Police Station, Akola for the offence punishable under Section 376 (2) and 506 of the Indian Penal Code as well as Section 3 (1) (xii) and 3 (2) (v) of the The Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989.

The application for cancellation of anticipatory bail was filed by the present non applicant no.2-complainant in the Court of Sessions Judge, Akola. The said was registered as Misc. Criminal Case No.371/2016. The said matter was filed on 23.03.2016 and it was allotted to the file of District Judge-I and Additional Sessions Judge, Akola.

The said application is still pending before District Judge-I and Additional Sessions Judge, Akola; is the statement made by the learned counsel for the applicant, which is accepted by this Court.

In the meanwhile, an application under Section 408 of Cr. P. C. was filed for transfer of the said application for cancellation of bail from the file of District Judge-I and Additional Sessions Judge to District Judge-II and Additional Sessions Judge, Akola.

In order to assail the order passed by the learned Sessions Judge while rejecting the application under Section 408 of Cr. P. C., the learned counsel for the applicant invited my attention to Page No.21 of the compilation which is an administrative order passed by Principal District and Sessions Judge, Akola dated 20.07.2016, which shows that the matters under the SC & ST (Prevention of Atrocities) Act shall be dealt with by the District Judge-II and Additional Sessions Judges, Akola for Akola Sessions Division. This particular submission was also advanced before the learned Sessions Judge to support the application under Section 408 of the Cr. P. C. While dealing with this submission, the learned Sessions Judge, in the impugned order, has observed thus:

“But it is necessary to point out that meanwhile all the Court of Additional Sessions Judges have come to be empowered to try the cases arising out of the offences under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, in spite of the fact that the Special Court is constituted.”

It is thus clear that every Court of Additional Sessions Judge in Akola Sessions Division is invested with the powers to try the cases arising out of the offences under the provisions of SC & ST (Prevention of Atrocities) Act. This particular aspect was therefore

rightly considered by the learned Sessions Judge while rejecting the application under Section 408 of the Cr.P.C. It cannot be the choice of a litigant that his matter should be heard and decided by a particular court.

In that view of the matter, there is no substance in the present application. The same is therefore rejected.

JUDGE

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