

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

CRIMINAL APPLICATION (APL) NO.359 OF 2017

Sahebrao s/o Keshavrao Pachpute

..vs..

State of Mah., thr. its Police Station Officer, Mukundwadi Police Station, District
Aurangabad and anr

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

Court's or Judge's Order

Shri Anil S. Mardikar, Senior Counsel with Shri S.G. Joshi, Adv. for the applicant.

Mrs. Mugdha Chandurkar, Counsel for non-applicant No.2.

Shri N.B. Jawade, Addl.P.P. for non-applicant No.1/State.

CORAM : V.M. DESHPANDE, J.

DATED : JULY 3, 2017.

Heard learned senior counsel Shri Anil S. Mardikar with Adv. Shri S.G. Joshi for the applicant, learned counsel Mrs. Mugdha Chandurkar for non-applicant No.2, and learned Additional Public Prosecutor Shri N.B. Jawade for non-applicant No.1/State.

A crime was registered bearing Crime No.I-94 of 2011 for the offences punishable under Sections 420, 406, 323, 506 read with Section 34 of the Indian Penal Code by Mukundwadi Police Station at Aurangabad. Since the applicant was apprehending his arrest, he moved an application for anticipatory bail before learned Sessions Judge, Aurangabad. The said application was allowed by learned Sessions Judge,

Aurangabad and the applicant was granted pre-arrest bail.

The investigating officer completed entire investigation and filed a final report with the Court of law on 30.4.2014 vide charge-sheet No.I-62 of 2013 for the offences punishable under Sections 420, 467, 468, 471, 472, 120(b), 323, 506, 34 read with Sections 66(d), 67, 73(a), and 74 of the Information Technology Act, 2000 and Sections 4, 5(b), and 6 of the Price Cheats and Money Circulation Schemes (Banning) Act, 1978. In the said report, the present applicant was shown as accused No.8.

The present applicant received a summon dated 20.4.2017 bearing Summon No.ECIR/NGSZO/02/2017/552 by the which the present applicant was directed to appear before non-applicant No.2. Since the applicant was apprehending that he will be arrested, he approached to this Court 16.5.2017. This Court granted *ad interim* relief in terms of prayer clause (2) of the present applicant and also directed the present applicant to appear before Enforcement Directorate on 22.5.2017.

In pursuance of the directions given by this Court, the present applicant appeared before non-applicant No.2 on the said date and the Enforcement Directorate has also recorded his statement, is the submission made by learned senior counsel Shri Anil S. Mardikar for the applicant.

The said submission is not disputed by learned counsel Mrs. Mugdha Chandurkar for non-applicant No.2.

Learned senior counsel Shri Anil S. Mardikar for the applicant invited my attention to the submission made by learned counsel Mrs. Mugdha Chandurkar for non-applicant No.2 by which he pointed that even non-applicant No.2 has stated on oath before this Court that the Enforcement Directorate has no unfettered power to arrest and the Directorate has just initiated enquiry in the case and, therefore, the apprehension of the present applicant that he may be arrested is unfounded and baseless. In view of this reply, learned senior counsel Shri Mardikar submits that if non-applicant No.2 wants to arrest the present applicant, prior Notice of 72 hours be given to the applicant.

Learned counsel Mrs. Mugdha Chandurkar for non-applicant No.2, on instructions from the investigating officer who is personally present in the Court, makes a statement that in case non-applicant No.2 wishes to arrest the applicant, prior Notice of 72 hours will be given to the present applicant.

On the submission made by learned counsel Mrs. Mugdha Chandurkar for non-applicant No.2, the present application is disposed of. All the points made in this application are kept open.

JUDGE

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