

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

CRIMINAL APPLICATION (ABA) NO. 580 OF 2017

(Nilesch S/o Ashok Ukey vs..State of Maharashtra, through PSO.PS.Gittikhadan,Nagpur)

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

Court's or Judge's orders.

Shri C.R.Thakur, Advocate for applicant.
 Shri R.S.Nayak, A.P.P. for State-non-applicant.

CORAM : V.M. DESHPANDE, J

DATED : AUGUST 24 , 2017

Heard learned counsel for the applicant and
 learned A.P.P. for State-non-applicant.

2] This is an application for pre-arrest bail. The applicant is apprehending his arrest in connection with Crime No.451/2015, registered with P.S.Gittikhadan,Nagpur, for the offence punishable under Sections 143,147,149, 427, 323, 506(B),504,279 of the Indian Penal Code, Section 3(1)(X) of Scheduled Caste and Scheduled Tribe(Prevention of Atrocities)Act and Section 3(1) of the Maharashtra Control of Organised Crime Act,1999.

3] The prosecution has filed reply to oppose the present application. The foremost contention in the reply is that the present application itself is not maintainable in view of the provisions of Section 21(3) of the Maharashtra Control of Organised Crime Act,1999. To counter the said submission, learned counsel for applicant invited my attention to the order passed by this Court in Criminal Application (BA)No.188/2017

dated 13/4/2017. The said order is taken on record and is marked "Annexure-X" for the purpose of identification. In the said order, this Court has specifically observed that prima facie, the offence under Section 3 of the Maharashtra Control of Organised Crime Act, 1999 is not at all attracted. In view of the matter, learned A.P.P. fairly submits that the bar as envisaged under Section 21(3) of the Maharashtra Control of Organised Crime Act, 1999 cannot be made applicable.

4] In so far as the merit is concerned, learned A.P.P. fairly states upon instructions and on the basis of investigation papers there is no material what so ever in nature against the present applicant. Only the accusation against the present applicant is that he was found in the company of one of the co-accused at Shirdi.

5] In view of the aforesaid submissions and looking to the facts that there is no evidence to connect the present applicant in respect of the crime in question the personal liberty of the applicant cannot be jeopardized. Hence, the order.

ORDER

- I) The application is allowed.
- II) In the event of arrest of applicant Nilesh S/o Ashok Ukey, in Crime No.451/2015, registered with P.S.Gittkhadan, Nagpur, for the offence punishable under Sections 143, 147, 149, 427, 323, 506(B), 504, 279 of the Indian Penal Code, Section 3(1)(X) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and Section 3(1) of

the Maharashtra Control of Organised Crime Act, 1999, he be released on bail on he executing P.R. of Rs. 25,000/- with one solvent surety in the like amount.

- III) The applicant shall not prejudice the prosecution case in order to exert influence over any prosecution witnesses.
- IV) The applicant shall attend scrupulously each and every date of the case which is allotted on the file of learned Special Judge, Nagpur.
- V) With this the application is disposed of.

JUDGE