

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

CRIMINAL APPLICATION (ABA) NO.667 OF 2017

Dattaprasad s/o Ravindrakumar Manjratkar

..vs..

State of Maharashtra, thr. PSO, Railway PS, Gondia

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

Court's or Judge's Order

.....
Shri S.A. Chaudhari, Counsel for the applicant.

Shri T.A. Mirza, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : SEPTEMBER 18, 2017.

1. The applicant is apprehending his arrest in connection with Crime No.101 of 2016 registered with Railway Police Station, Gondia for the offences punishable under Sections 379, 411, 143, and 149 read with Section 34 of the Indian Penal Code.

2. Heard learned counsel Shri S.A. Chaudhari for the applicant and learned Additional Public Prosecutor Shri T.A. Mirza for the State.

3. Learned counsel Shri S.A. Chaudhari for the applicant submits that the applicant is falsely implicated in the crime. It is his further submission that the applicant has nothing to do with the business of his father and his brother. It is also his submission that the applicant is a law student. It is

also submitted by learned counsel that after the arrest of the applicant's brother and father, who are released on bail, the name of the applicant is surfaced in the prosecution case and, therefore, according to him, application is required to be allowed as the prosecution against him is tainted.

4. Per contra, learned Additional Public Prosecutor Shri T.A. Mirza for the State opposes the application vehemently. He submits that the applicant is the receiver of the stolen property. The property in the present crime is 2.702 kilograms of gold ornaments, which were lifted by co-accused from Intercity Express on 20.10.2016 from Gondia Railway Station. First informant is one Bharat Jain who was travelling in the said Intercity Express.

5. Worth of the jewelery is Rs.80.00 lacs. According to the reply, Call-Detailed-Record (CDR) of accused Harshad Kale, who lifted the bag and though he is released on bail by the Sessions Court, shows that he was in touch with the present applicant. The reply also gives transcription of the talk between the present applicant and co-accused Harshad Kale

6. If the applicant was not having any concern and was a genuine student of law, there was no occasion for the applicant to have a telephonic conversation with accused Harshad. Kale. Accusation against the applicant is that he is a receiver of the stolen property. In my view, this offences is

more serious than the offence under Section 379 of the Indian Penal Code.

7. The reply filed on behalf of the State shows that even today, the property stolen away from the first informant is yet to be recovered.

8. Learned Additional Public Prosecutor Shri T.A. Mirza for the State points out to me the police papers which show that when the police party had been to the house of the applicant for search, the police party were obstructed and, thereafter, the search could not be conducted.

9. Looking to the aforesaid and in view of the fact that there is direct conversation between accused Harshad Kale and the present applicant and the fact that the stolen property is yet to be recovered, in my view, custodial presence of the applicant is absolutely necessary.

10. It is also pointed out to this Court that one of the co-accused, namely brother of the applicant, is released on anticipatory bail by this Court with whom also there was telephonic conversation. In that behalf, learned Additional Public Prosecutor Shri T.A. Mirza for the State submits that the State is taking necessary steps for cancellation of said anticipatory bail.

11. In view of seriousness of the offence, I am of the view that the custodial presence of the present applicant is

absolutely necessary. Hence, the criminal application is rejected.

JUDGE

!! BRW !!