

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.683 OF 2017

(Sherkhan S/o Babu khan..vs..State of Maharashtra, through PSO.Wardha City,Wardha)

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

Court's or Judge's orders.

Shri A.M.Jaltare, Advocate for applicant.

Shri J.Y.Ghurde, A.P.P. for State-non-applicant.

CORAM : V.M. DESHPANDE, J.

DATED : SEPTEMBER 29, 2017

This is an application for pre-arrest bail.

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

3] The applicant is apprehending his arrest in connection with Crime No.1153/2017, registered with P.S.Wardha City, Wardha, for the offence punishable under Sections 457, 454 and 380 of Indian Penal Code.

4] According to prosecution, on 15/5/2017 one Raju Ramaji Bawne lodged a report to the effect that he is running repairing shop of motor rewinding. According to complainant, on 12/5/2017 in the evening at about 7.00 p.m. he noticed that the door of the shop was broken open, he entered into the shop, there he noticed that some articles as such as motor pump, fan, cooler, rewinding copper wire, aluminum wire etc. were missing. The worth of the articles which were missing Rs.19,700/- . According to complainant he searched the

shops of 8 to 10 scrap dealers to find out the stolen articles. The complainant thereafter found one fan belonging to his shop in the shop belonging to the present applicant. On inquiry, according to complainant the applicant gave evasive reply. Therefore, the report was lodged. According to reply, filed on the part of the prosecution, a notice under Section 41(a) of the Code of Criminal Procedure was issued to the applicant. In compliance to the said notice, applicant attended police station. It is also reported on behalf of the prosecution that on 14/7/2017 police made visit to the shop of the applicant and certain articles were seized. The learned A.P.P. submits that some articles are yet to be seized and therefore the custodial presence of the applicant is warranted.

5] This Court on 21/9/2017 granted ad-interim anticipatory bail in favour of the applicant on the condition that he will attend P.S.Wardha City, Wardha on 23/9/2017, 24/9/2017 and 25/9/2017 and shall be with the investigating officer from 11.00 a.m. to 5.00 p.m. The learned counsel for applicant submitted that in view of the said directions the applicant had attended the police station and was with the investigating officer during the time as directed by this Court. This particular submission is admitted by the learned A.P.P. and submits that applicant was with the investigating officer.

6] From the conduct of the applicant that right from beginning when notice under Section 41(a) of the

Code of Criminal Procedure was given applicant has visited the police station and he has also extended the full cooperation. There is nothing on record to show that the applicant is having any past criminal record to brand him as a receiver of the stolen property. The learned A.P.P. on the basis of the investigating papers was unable to point out that at any point of time articles which were found in the shop of the present applicant, it was within the knowledge of the present applicant that the said property is stolen property.

7] In view of the same I am of the view that the custodial presence of the applicant as claimed by the prosecution cannot be granted. Taht leads me to pass the following order.

ORDER

- I) Application is allowed.
- II) In the event of arrest of applicant Sherkhan S/o Babu Khan in Crime No.1153/2017, registered with P.S.Wardha City, Wardha, for the offence punishable under Sections 457, 454 and 380 of Indian penal Code, he be released on bail on he executing P.B. of Rs. 25000/- with two solvent sureties in the like amount.

Application is disposed of.

JUDGE