

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

CRIMINAL APPLICATION (ABA) NO.720/2016

Pankaj S/o Kanchan Jagdale

..Vs..

State of Maharashtra, through Police Station Officer Police Station Bramhapuri,
Tah. Bramhapuri, Distt. Chandrapur

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

Court's or Judge's orders

Shri J.M. Gandhi, Advocate for the applicant.
Shri V.R. Thakre, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 12.6.2017.

Heard.

The applicant has sought pre-arrest bail apprehending arrest in crime registered against him for offence punishable under Sections 409, 468, 471, 477(A) read with Section 34 of the Indian Penal Code. According to the investigating agency, the applicant, a government servant, was working as Center Head at the Bramhapuri warehouse and after his transfer on 14th January, 2016 he avoided to hand over charge to Shri Suresh Pralhad Gajbhiye who was transferred in his place and ultimately, the applicant was suspended on 7th May, 2016 and then Shri Suresh Pralhad Gajbhiye informed that stock of rice worth Rs.23.40 Lakhs (weighing 85.40 metric tons) and wheat worth Rs.26.95 Lakhs (weighing 143.36 metric tons) was short. According to the

investigating agency, the applicant and co-accused Yashwant, who was working as the Store Keeper at the relevant time, misappropriated the huge stock.

The learned Advocate for the applicant has submitted that the co-accused Yashwant is already released on regular bail by this Court by order passed on 23rd November, 2016 and considering the nature of accusations, the applicant is also entitled to be released on bail. It is submitted that the accusations against the applicant that he avoided to hand over charge of the post are not correct. It is submitted that the letter dated 17th March, 2016 was sent by the applicant to Suresh Gajbhiye calling upon him to take charge but inspite of this, Suresh Gajbhiye failed to take charge from the complainant.

An alternate submission is made that interim protection is granted by this Court by order passed on 26th October, 2016 and that the investigating agency has not made any complaint that the applicant has not co-operated with the investigation agency and considering this the applicant be granted interim protection for two weeks and the trial Court be directed to consider and dispose of the application of the applicant which he will file under Section 439 of the Criminal Procedure Code, within two weeks. To support the submission, the learned Advocate for the applicant has relied on the judgment given in the case of *I.C.I.C.I. Ltd. V/s. Ceeta Industries Ltd. and others* reported in **AIR 2000 SC 3541(2)** and the order passed by this Court in

Criminal Application (ABA) No.240/2012 on 5th July, 2012.

The applicant is under suspension since 7th May, 2016. It is informed that the departmental enquiry against the applicant is at the final stage. Considering the nature of accusations against the applicant and the fact that the charge-sheet is yet to be filed, I am not inclined to consider the application. The application is **dismissed**.

The applicant enjoyed the interim protection granted by this Court by the order passed on 26th October, 2016. The applicant shall surrender within one week, failing which the conduct of the applicant may be noted at all stages of the matter.

JUDGE

Tambaskar.