

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

CRIMINAL APPLICATION (BA) NO.1056 OF 2016

Anand Vasant Kamble

..VS..

The State of Maharashtra, through P.S.O. P.S. Durgapur, Chandrapur

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

Court's or Judge's Order

Shri Mir Nagman Ali, Counsel for the applicant.
Shri N.B. Jawade, Addl.P.P. for the non-applicant/State.

CORAM : P.N. DESHMUKH, J.
DATED : FEBRUARY 16, 2017.

This application is filed for bail by accused involved in Crime No.39 of 2015 for the offences punishable under Sections 307, 397, 452, and 342 read with Section 34 of the Indian Penal.

Heard learned counsel for the applicant and learned Additional Public Prosecutor for the non-applicant/State.

It is submitted that applicant was released on bail by this Court on merits. However, as he did not remain present before the Trial Court on two dates, warrant came to be issued and on execution of the same, applicant is taken into custody since 28.9.2016 and since then is behind bars.

Learned counsel for the applicant has submitted that learned Trial Court rejected the

application for bail considering that the medical certificate issued was doubtful as according to it applicant was under medical treatment at Chandrapur while as per application filed for grant of bail, applicant was stated to be at Nagpur for treatment which according to learned counsel for the applicant came to be mentioned inadvertently and thus submitted that the application be allowed.

Learned Additional Public Prosecutor has opposed the application as per its reply and has also pointed out order of this Court granting bail to applicant directing to attend before the Sessions Court and in the event of his remaining absent to seek exemption, else order shall stand recalled.

Perusal of record reveals that N.B.W. came to be issued as on 11.8.2016 and 16.9.2016 applicant was not present. On execution of N.B.W. and on his production before learned Sessions Court on 28.9.2016 though he applied for bail contending inability to attend earlier on health grounds, as there were no medical certificates filed in support his case, on 3.10.2016 on obtaining permission of Court necessary certificate was filed. However, the application was rejected holding that the certificate was false, as according to the application filed, treatment was obtained at Nagpur, while the certificate was otherwise.

It appears that by filing such certificate,

applicant wanted to place on record his inability to file application for exemption on the earlier date. However, doubting truthfulness of same, the application for bail is rejected.

Having considered the fact that applicant was granted bail by this Court on merits, *prima facie* there appears substance in the case of applicant of wrong mentioning of place of treatment at Nagpur in stead of Chandrapur in application filed before the Trial Court for bail as the copy of medical certificate issued by doctor Ratnaparkhi certify that applicant was under his treatment from the period from 11.8.2016 to 19.9.2016 during which period on 11.8.2016 and 16.9.2016 applicant was absent nor had filed application for exemption from his personal appearance before the Trial Court and thus N.B.W. is issued.

In that view of the matter, the application is allowed, as per the order below:

Applicant shall be released on bail on same condition on same bail but, on executing fresh P.R. Bond.

Needless to say that, applicant shall attend before the Trial Court without fail.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 20/2/2017