

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

CRI. APPLICATION (ABA) NO. 703 OF 2015

(TUSHAR LAXMANRAO JAWAKE & OTH....VS.. STATE OF MAH. THR. PSO MANGRULPIR, DIST.
WASHIM)

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.Gordey, Sr.Adv. a/b. Ms R.D.Raskar, adv. for applicants.
Shri T.A.Mirza, A.P.P. for Non-applicant.

CORAM : Z.A.HAQ, J.

DATED : JUNE 05, 2017.

Heard.

The applicants have filed this application seeking pre-arrest bail apprehending arrest in the crime registered against them along with other co-accused for the offences punishable under Sections 466, 467, 468, 473, 481, 474, 409, 420, 181 read with Section 34 of the Indian Penal Code. This application is filed in December, 2015 and *ad-interim* order granted in favour of the applicants on 23rd December, 2015 continues till date.

The learned A.P.P. has submitted that the investigation is complete, however, chargesheet could not be filed because of pendency of application under Section 482 of the Code of Criminal Procedure before the Division Bench of this Court, filed by the some of the co-accused. The learned Senior Advocate appearing for the applicant has made a categorical statement that the Division Bench has not passed any order restraining the Investigating Officer from filing the chargesheet.

The learned A.P.P. has not been able to point out the necessity of custody of the applicant. It is submitted that though chargesheet is ready, it is not filed because of the order passed by the Division Bench of this Court restraining the Investigating agency from taking any coercive action against the accused.

Considering the above facts and accepting the submissions made on behalf of the applicants that they were not involved in any other crime/ offence at any point of time, in my view, the applicants are entitled for pre-arrest bail.

Hence, the following order :

The interim order passed on 23rd December, 2015 is confirmed. However, on condition that after filing of the chargesheet the applicants shall attend the proceedings before the Court on every date unless exemption is granted by the Court.

The Investigating Officer shall examine the matter and if required take legal advise on the point whether the order passed by the Division Bench of this Court on application under Section 482 of the Code of Criminal Procedure restrains the Investigating Officer from filing the chargesheet. If the order is not of such a nature then the chargesheet should be filed within a fortnight.

The application is **allowed** in the above terms.

JUDGE