

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.1191/2017

Dr. Arif Rashid Rahman & anr. ..vs.. State of Maharashtra, through PSO P.S.
Pandharkawda, Dist. Yavatmal.

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

Court's or Judge's orders.

Mr. P. S. Jaiswal, Advocate for applicants.
Mrs. G. Tiwari, A.P.P. for non applicant-State.
Mr. M. N. Ali, Advocate Assisting Prosecution.

CORAM : V.M. DESHPANDE, J.

DATED : DECEMBER 15, 2017

Criminal Application NO.2091/2017

This is an application filed by the original complainant to assist the prosecution.

For the reasons stated in the application, it is allowed. Complainant is allowed to assist the prosecution.

The application stands disposed of accordingly.

Criminal Application No.1191/2017

1. Heard Mr. P. S. Jaiswal, Advocate for applicants, Mrs. G. Tiwari, A.P.P. for non applicant-State and Mr. M. N. Ali, Advocate Assisting Prosecution.

2. The present applicants were granted bail by the learned Additional Sessions Judge, Kelapur on 14.11.2017 in respect of Crime No.757/2017, registered with Police Station Pandharkawda, Dist. Yavatmal for an offence punishable under Sections 420, 406 read with 34 of the Indian Penal

Code on certain conditions. As per the conditions, the applicants were to furnish bank guarantee within 15 days after their release. After furnishing the bail bonds, the applicants were released on bail. The applicants had on 29.11.2017 filed an application for grant of time to deposit the amount as directed by the Court. In the said, 15 days' time was prayed. The said application was moved before the learned Sessions Court, which granted the said order releasing the applicants on bail.

3. It is not clear as to how the application then was placed before the learned Magistrate, Kelapur on 29.11.2017 who rejected the application and issued the warrants against the present applicants. Once an order is passed by the learned Sessions Judge, it was not open for the learned Magistrate to pass an order rejecting the application for extension of time.

To that extent the order of the learned Magistrate cannot stand to the scrutiny of law.

4. The applicants will have to approach before the learned Sessions Court by moving an appropriate application seeking extension of time to furnish the bank guarantee on giving cogent reasons. The present application before this Court is not maintainable.

Hence, following order is passed.

Order

- (i) Criminal Application No.1191/2017 is dismissed as not maintainable.
- (ii) The applicants to file an application before the learned Sessions Judge, Kelapur seeking extension of time to comply with the conditions as imposed upon them vide order dated 14.11.2017.
- (iii) The applicants to approach the learned Sessions Judge, Kelapur within 10 days from today. Till that time, the nonailable warrants issued by the learned Magistrate shall not be executed, if it is not executed.

JUDGE