

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

CRIMINAL APPLICATION (ABA) NO.473 OF 2018

(Ashish s/o Rajendraprasad Chaube ..vs.. State of Maharashtra, through PSO, PS Awdhootwadi,
Yavatmal)

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

Court's or Judge's orders

Shri A.S. Manohar, Counsel for the applicant,
Shri C.A. Lokhande, Addl.P.P. for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 24-07-2018

The applicant, who is a police constable, is apprehending arrest in Crime 682/2018 registered with the Awdhootwadi Police Station, Yavatmal for offences punishable under Sections 392, 120-B, 411 and 452 read with Section 34 of the Indian Penal Code and Section 4/25 of the Arms Act.

2. Incidentally, the applicant is posted at the Police Station at which the offence is registered.

3. On 22-5-2018 at 11-30 hours or thereabout, four persons, then unknown to the complainant, allegedly robbed the complainant Madan Hepat of Rs.3,80,000/- and mobile phone at knife point. The report was lodged on 26-5-2018. The explanation for the delay in lodging the report is that the employer of the complainant, to whom the cash belonged, was at Indore and returned only on 25-5-2018.

4. During the course of the investigation, complicity of the applicant surfaced in the statements recorded of witness Anil Gawali on 31-5-2018 and the supplementary statement of the complainant recorded on 01-6-2018. The statements are to the effect that at 2-00 p.m., that is approximately one and half hours after the incident, the applicant was seen in the company of the four co-accused who allegedly committed the dacoity. The learned Counsel for the applicant would submit that the statements are recorded belatedly. It is true that there is some delay in recording the statements and there is also an attempt to explain the delay. It is ultimately for the trial Court to consider the implication of the delay in recording the statements, if at all the statements are delayed.

5. At this stage, at least *prima facie*, there is more than ample material on record to connect the applicant to the crime. It would not be appropriate to make any emphatic observation on the respective contentions while deciding the application seeking anticipatory bail. However, it would be necessary to record, at least briefly, the reasons why this Court is not exercising discretion in favour of the applicant. The CDR details which I have perused would show that the applicant was in contact with the accused, who allegedly pulled off the dacoity, prior to the dacoity and virtually immediately after the

commission of the crime. The fact that the applicant was in communication with the alleged decoits, in my opinion, is enough *prima facie* material not to exercise discretion in favour of the applicant. The charge is of conspiracy and the applicant is a police constable. If the investigating agency is deprived of the opportunity of custodial interrogation of the applicant, the investigation would be stifled and it would be virtually impossible for the investigating agency to connect the missing links. This is not a case for grant of anticipatory bail.

6. The application is rejected.

JUDGE

adgokar