

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

CRIMINAL APPLICATION (ABA) NO.509 OF 2018

(Sahebrao s/o Govindrao Lavhale and others ..vs.. State of Maharashtra, through PSO, PS Shirkhed)

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

Court's or Judge's orders

Shri A.V. Band, Counsel for the applicant,
Shri V.A. Thakare, Addl.P.P. for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 27-07-2018

The applicants are apprehending arrest in Crime 101/2018 registered with Shirkhed Police Station for offences punishable under Sections 420 and 406 read with Section 34 of the Indian Penal Code.

2. Applicant 1 is the father, applicant 2 is the wife and applicant 3 is the uncle of one Atul Lavhale, who is a co-accused.

3. Atul Lavhale is absconding and despite the best efforts of the investigating agency, he is not apprehended. Atul Lavhale allegedly induced several farmers in the district of Amravati to part with turmeric crop assuring handsome consideration. However, although the farmers handed the crop to Atul, he has vanished without making the payment.

4. Several offences are registered against Atul and the present applicants are arrayed as co-accused. This

Court has granted anticipatory bail to the present applicants in the other crimes registered in the district of Amravati.

5. Applicant 1 is 75 years old, applicant 3 is 72 years old and applicant 2 is the wife of the absconding accused Atul. The perusal of the material on record would suggest that the fraud is pulled off by Atul although in the passing some role is attributed to the present applicants. However, this Court is satisfied from the material on record that discretion would have to be exercised in favour of the applicants for reasons more than one. The age of applicants 1 and 3 and the fact that applicant 2 is a woman is a relevant consideration. Since the investigating agency has not managed to locate Atul, it would be futile to custodially interrogate the present applicants since the brain behind the scam, even if the material on record is taken at face value, is Atul and it is he who took the crop and failed to make the payment.

6. The application is allowed.

7. The interim order dated 10-7-2018 is confirmed with the modification that the applicants shall attend the Police Station Shirkhed as and when required by the Investigating Officer.

JUDGE

adgokar