

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

CRIMINAL APPLICATION (BA) NO.1281/2017

Yadavrao s/o Pandhari Nikhare ..vs.. The State of Maharashtra through PSO
P.S. Kotwali, Amravati.

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

Court's or Judge's orders.

Mr. S. S. Dewani, Advocate for applicant.

Mr. N. B. Jawade, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 8, 2018

1. Heard Mr. S. S. Dewani, Advocate for applicant
and Mr. N. B. Jawade, A.P.P. for non applicant-State.

2. This is an application for bail. The applicant was
arrested on 10.11.2017 in connection with Crime
No.356/2017 registered with Police Station, Kotwali,
Amravati for an offence punishable under Sections 420, 406,
465, 467, 471, 120 (B) read with Section 34 of the Indian
Penal Code.

3. The application is opposed mainly on the ground
that the investigation is in progress and the charge-sheet is
yet to be filed insofar as the present applicant is concerned.

4. The applicant was working as Manager of Andhra
Bank, Amravati. According to the accusation made against
present applicant, he has recommended the disbursement of

loan to one Akash Shirbhate who has availed the loan and thereafter the loan account has become NPA. It is to be noted that the said Akash was released on anticipatory bail by this Court. This Court, thereafter issued suo motu notice for cancellation of bail. However, vide order dated 04.12.2017 in Suo Motu Application No.34/2017, this Court (Coram: S. B. Shukre, J.) has dropped the suo motu notice for cancellation of bail. Further, at no point of time, the investigating officer has filed an application for cancellation of bail of any of accused persons who are released on bail.

5. The applicant was arrested on 10.11.2017 and was in Police Custody Remand till 15.11.2017 and thereafter he was taken in Magisterial Custody Remand. The PCR papers show that extension of PCR was prayed for search of the house of the present applicant. According to the learned A.P.P., on instructions from the investigating officer, the search of the house was made and nothing incriminating was found in the house. Today, when a specific query was made to the learned A.P.P. as to why the custodial presence of the applicant is required, surprisingly the learned A.P.P. has submitted that if the applicant is released on bail, he will try to destroy the documents. It is to be noted that all other documents are already seized by the investigating officer and the original documents are with the Zonal Office at Pune. They are not in the custody of the present applicant. Not only that, in the search of his house, no incriminating material was found in the house.

Therefore, in my view, further custodial presence of the applicant is not necessary especially when other accused persons are already released on bail.

6. The applicant was working as Manager of Andhra Bank. Thus there is a least possibility that he will not be available to the course of justice. Even there is a reference in the order dated 04.12.2017 that the charge-sheet will be filed within one month however in spite of lapse of the said period, the charge-sheet is yet to be filed.

The explanation for non filing of the charge-sheet is that the documents were called from Pune Office by sending a person on 27.12.2017 but they are still awaited.

7. In view of the fact that all other accused persons are already released on bail, detailed investigation is already over and the documents pertaining to the investigation are with the Zonal Office at Pune, in my view, further custodial presence of the present applicant is not warranted and the applicant can be released on bail by imposing certain conditions.

8. In that view of the matter, following order is passed.

ORDER

- (i) Criminal Application No.1281/2017 is allowed.
- (ii) Applicant-Yadavrao Pandhari Nikhare be released on bail in connection with Crime No.356/2017 registered with Police Station, Kotwali, Amravati for an offence

punishable under Sections 420, 406, 465, 467, 471, 120 (B) read with Section 34 of the Indian Penal Code, on he executing P.R. Bond in the sum of Rs.1,00,000/- with two solvent sureties in the like amount.

(iii) The applicant shall attend office of the Economic Offences Wing, Amravati twice a month i.e. on every third and fourth Monday and shall remain with the investigating officer from 11.00 a.m. to 05.00 p.m. till completion of the investigation.

(iv) The applicant shall not tamper with the prosecution case and shall not make any attempt to prejudice the ongoing investigation.

(v) The observations made in this order are prima facie in nature and they are made only for the limited purpose for considering the application for bail. However, the learned trial Court shall not get influenced by any of the aforesaid observations.

The application stands disposed of accordingly.

JUDGE