

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

Criminal Application (BA) No.487 of 2019
(Iliyas Khan Ahmad Khan .vs. State of Maharashtra through PSO PS
Rajura, Dist. Chandrapur.)

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

Mr. A.S. Manohar, Advocate for Applicant
Mr. V.P. Maldhure, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : July 10, 2019.

This is an application whereby the applicant is seeking bail as he has been behind bars since 14.05.2019 in connection with FIR dated 13.05.2019 registered against him and other accused persons. According to the learned counsel appearing for the applicant, even if, the allegations levelled in the present case are to be considered, at worst, an offence under Section 411 of the IPC could be alleged against the applicant for dishonestly receiving stolen property.

2. The facts alleged by the complainant against the accused persons in the present case are that 50 mm power cable was stolen from the premises of the Western Coalfield Ltd. (WCL) by other accused persons and thereafter they had burnt the wire, extracted the copper from the same, which was eventually sold to the applicant herein.

3. It is pointed out by the learned counsel for the applicant that the applicant is actually a scrap merchant and that he has valid registration of such status as

issued by the State Authorities under the Maharashtra Shops and Establishment Act, 1948. It is further pointed out that other than the statement of the co-accused, there is no other material to even remotely connect the applicant with the said offence. It is submitted that there is hardly any material on record to show that the applicant was having any knowledge or that he had reason to believe that he was dealing with the stolen property. It is pointed out that since the applicant has been behind bars from 14.05.2019, no purpose would be served in continuing the custody of the applicant.

4. The learned APP has handed over the copy of the reply which is taken on record. The learned APP has opposed grant of relief in the present application by pointing out that the applicant has criminal antecedents because on an earlier occasion also, an offence has been registered against the applicant under Section 379 of the IPC for similar activity.

5. Considering the nature of allegations made against the applicant in the present case, it becomes clear that he is not alleged to have actually stolen the power cable in question. The only role attributed to the applicant is that he had allegedly knowingly purchased the stolen property from the co-accused persons. The alleged stolen material i.e. the burnt copper wire has been already seized by the Police and the question as to whether the applicant knowingly purchased the same, would be a matter for trial.

6. In view of the above, this Court is of the opinion that the application deserves to be allowed. Accordingly the application is allowed and the applicant

is directed to be released on bail on following conditions:-

- a) The applicant shall furnish P.R. bond of Rs.25,000/- (Rs. Twenty Five Thousand) and a surety in the like amount.
- b) The applicant shall continue to cooperate with the investigation.
- c) The applicant shall not tamper with the evidence or influence the witnesses.

JUDGE

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