

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

CRIMINAL APPLICATION (APL) NO.527 OF 2018

(ASHISH SHIVKUMAR WANKHADE...VS.. STATE OF MAH. THR. PSO PS OLD CITY AKOLA.)

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

Court's or Judge's orders

Shri Atul Pande, Advocate for Applicant.
Ms Shamsi Haider, A.P.P. for Non-applicant/State.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 13, 2019.

Heard.

Pursuant to registration of the First Information Report on 14th December 2017 for the offences punishable under Sections 307, 324, 294, 143, 144, 146, 147, 148 and 149 of the Indian Penal Code and Sections 4 and 25 of the Arms Act, Crime No. 384 of 2017 came to be registered by the non-applicant. By order dated 16th January 2018, the learned Sessions Judge directed that the applicant be released on bail. On 22nd January 2018, the non-applicant forwarded the proposal to the Inspector General of Police, Amravati Range seeking approval for application of the provisions of the Maharashtra Control of Organised Crime Act, 1999 against the applicant and the co-accused. On 22nd January 2018, the Inspector General of Police granted approval as sought by the non-applicant. On 9th February 2018, the non-applicant moved an application before the Sessions Court praying that the order passed by the Sessions Court on 16th January 2018 directing that the applicant be released on bail be recalled and the bail granted to the applicant be cancelled. This application filed by the non-applicant is allowed by the Sessions Court by the impugned order.

In the meantime, the applicant had filed Criminal Writ Petition No.243 of 2018 to challenge the order passed by the Inspector General of Police granting approval for applying the provisions of the Maharashtra Control of Organised Crime Act, 1999 against the applicant. This writ petition is dismissed by the Division Bench of this Court by order dated 21st August 2018. The Division Bench of this Court has observed that the applicant can agitate the questions before the Special Court.

The submission on behalf of the applicant is that the impugned order cancelling the bail granted to the applicant is not in consonance with the established principles laid down by the Hon'ble Supreme Court and this Court. It is submitted that application of the provisions of the Maharashtra Control of Organised Crime Act, 1999 cannot be the ground to cancel the bail granted to the applicant, unless the prosecution/investigating agency brings on record sufficient material to show that the applicant misused the liberty granted to him.

According to the non-applicant, the applicant is leader of the gang of which co-accused-Mangesh Gangaram Tapre (applicant in APL No.526/2018) is member. According to the non-applicant, the gang of which the applicant is leader, has created terror in the locality and the witnesses are not coming forward to give statements against the applicant and co-accused-Mangesh Tapre.

To counter this submission, the learned advocate for the applicant has submitted that the investigating agency has recorded statements of about 27 persons and none of them has complained to the investigating agency that the applicant has given threat to that person.

The learned A.P.P. has further pointed out that Sau. Savita Chavhan, Shamsheer Singh Surjit Singh, Ankush Gopnarayan, Nitin Gotmare and Ku.Kajal Sanap have stated before the Investigating Agency that the applicant runs a syndicate and the said syndicate is involved in illegal activities in the city of Akola.

There is no reason to disbelieve the investigating agency, specially considering the fact that 16 charge-sheets in respect of the offences against the body and property are filed against the applicant.

Considering the facts of the case, in my view, the learned Special Judge has not committed any error by cancelling the bail granted to the applicant. I see no reason to interfere with the impugned order.

The Criminal Application is **dismissed**.

While disposing the Criminal Application (APL) No.526 of 2018 filed by co-accused-Mangesh Gangaram Tapre, the learned Special Judge is directed to conclude the trial within four months. Hence, further orders for expeditious trial are not required in the present case.

At this stage, the learned advocate for the applicant prayed that the interim order granted by this Court on 18th June 2018 be continued for six weeks to enable the applicant to take appropriate steps in the matter.

Considering the facts of the case the prayer is rejected.

JUDGE