

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

CRIMINAL APPLICATION (ABA) NO.414/2019

Jayant s/o Bhaskarrao Gaopande

..VS..

The State of Mah., thr. PSO, Achalpur, Taluka Achalpur, District Amravati

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

Court's or Judge's Order

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Shri V.R.Deshpande, Counsel for the Applicant.
Shri M.J.Khan, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.
DATED : AUGUST 27, 2019.

1. Heard learned counsel Shri V.R.Deshpande for the applicant and learned Additional Public Prosecutor Shri M.J.Khan for the State. Also, perused reply filed on behalf of the State.
2. The applicant is apprehending his arrest in connection with Crime No.88/2019 registered with Achalpur Police Station, District Amravati for offences under Sections 406 and 409 of the Indian Penal Code.
3. First Information Report was lodged by Kailash Kashinath Tayde, Assistant Superintendent of Post Office East (Sub Division) Anjangaon Surji, District Amravati, against the present applicant.
4. As per the prosecution case, the applicant was working as Treasurer at Achalpur Post Office during period from 2017 to 2019. During the said period, though he

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received Rs.3,41,000/- in the said office, the said amount was not deposited in the treasury and, therefore, he committed misappropriation.

5. This Court (Coram : Manish Pitale, J.), on 1.7.2019 granted *ad interim* anticipatory bail in favour of the present applicant. While granting the *ad interim* anticipatory bail, it was observed that the applicant already deposited Rs.3,20,000/- with the Government Treasury. The applicant is also under suspension and is facing departmental enquiry. The applicant was also directed to join investigation and extend full cooperation to Investigating Officer.

6. It is not disputed before me by learned Additional Public Prosecutor Shri M.J.Khan for the State, that the applicant did not attend police station. The applicant joined investigation and is also interrogated. According to learned Additional Public Prosecutor, custodial presence of the applicant is necessary for recovery of remaining amount Rs.21,000/-. To this, it is submission of learned counsel Shri V.R.Deshpande for the applicant, that co-accused Mohd.Shahrukh, though not joined as accused, has deposited the said amount with the Treasury.

7. Merely because the amount is deposited by the applicant, the offence will not be wiped out. The applicant will have to face the prosecution. His fate will be decided during the course of the Trial. However, today, the question is of custodial presence.

8. As observed above, the applicant has already joined investigation and he is already placed under suspension and is facing departmental enquiry which clearly shows that now he has no control whatsoever in nature over any official document. Documents are also seized by Investigating Officer.

9. In this view of the matter, the application of the applicant can be considered favourably and at the same time interest of the prosecution can also be secured. Accordingly, I pass following order:

ORDER

(i) The criminal application is allowed.

(ii) In the event of arrest of applicant-Jayant s/o Bhaskarrao Gaopande, in connection with Crime No.88/2019 registered with Achalpur Police Station, District Amravati for offences under Sections 406 and 409 of the Indian Penal Code, he be released on bail on he executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

(iii) The applicant is directed to attend Achalpur Police Station, District Amravati, thrice a week i.e. on every Saturday, Sunday, and Monday and shall be with Investigating Officer from 11:00 a.m. to 5:00 p.m. for next 2 months.

(iv) After expiry of 2 months, the applicant is directed to attend the police station as and when he is called by Investigating Officer, till filing of chargesheet, however for that Investigating Officer shall give him a 2 days' written communication.

(v) The applicant shall not try to prejudice the prosecution case.

(vi) With this, the criminal application is disposed of accordingly.

JUDGE

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