

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

CRIMINAL APPLICATION (ABA) NO.416/2019

Salim Abdul s/o Rashid Sheikh

..VS..

The State of Mah., thr. its Police Station Officer Umred, Nagpur

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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 P.Bezalwar, Counsel for the Applicant.
Shri J.Y.Ghurde, Addl.P.P. for the State.

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

1. This is an application for grant of pre-arrest bail since the applicant is apprehending his arrest in connection with Crime No.490/2019 registered with Umred Police Station, District Nagpur for offences under Sections 380, 461, 109, and 411 of the Indian Penal Code.
2. Heard learned counsel Shri P.Bezalwar for the applicant and learned Additional Public Prosecutor Shri J.Y.Ghurde for the State.
3. On 19.8.2019, this matter was heard. On the said day, learned Additional Public Prosecutor Shri J.Y.Ghurde for the State, sought time to produce panchnama under which stolen articles lying in shop of the applicant were seized. Accordingly, the matter was adjourned to today.
4. Today, Investigating Officer is personally

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present in the Court. After obtaining instructions from him, learned Additional Public Prosecutor Shri J.Y.Ghurde, made a statement that no stolen article was seized from shop of the applicant neither any panchnama was drawn in that behalf.

The statement is accepted.

5. Statement of Investigating Officer on affidavit is as under:

“When the Investigating Officer went to the shop of applicant for apprehending him he was absconding, however, the stolen iron articles lying in the shop of applicant were seized in presence of panchas”

The above statement made on affidavit by Investigating Officer, is palpably false and just to prejudice the Court against the applicant which is a very serious matter.

6. It is expected that Investigating Officer shall function impartially. It is also expected that he will not take side either of complainant or accused persons. His job is to collect evidence during the course of investigation and place the said before Court. It is for the Court to appreciate evidence collected during the course of investigation and to pass appropriate orders in accordance with law.

7. In the present case, it is not prosecution version that the applicant has stolen any property from “Vaibhav Laxmi Rolling Mills” situated at MIDC, Umred. Allegations against the applicant is that he is receiver of stolen property.

8. Investigation papers do not show any evidence that at any point of time till today the applicant received stolen property from co-accused. No independent investigation appears to have been conducted by Investigating Officer. Only the prosecution is relying on statement of co-accused which is inadmissible in evidence though it may give lead to Investigating Officer.

9. It appears that after getting lead from co-accused, as per reply, Investigating Officer visited shop of the applicant and seized articles which are found to be false.

10. In this view of the matter, I pass following order:

ORDER

(i) The criminal application is allowed.

(ii) In the event of arrest of applicant-Salim Abdul s/o Rashid Sheikh, in connection with Crime No.490/2019 registered with Umred Police Station, District Nagpur for offences under Sections 380, 461, 109, and 411 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 the police station on 31.8.2019, 1.9.2019, and 2.9.2019 and shall be with Investigating Officer from 11:00 a.m. and 2:00 p.m..

(iv) Investigating Officer is hereby directed that if the applicant attends the police station, he shall mark attendance of the applicant in the diary kept by the applicant.

(v) Registrar (J.) is directed that this order be brought to notice of the Superintendent of Police at Nagpur (Rural) for taking appropriate action.

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

JUDGE

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