

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

CRIMINAL APPLICATION (ABA) NO.533/2019

Mukesh Kailash Sharma Vs. State of Maharashtra, through PSO, P.S.
Nandura, Dist. Buldhana.

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

Court's or Judge's orders.

Mr. Avdhesh Kesari, Advocate for appellant.
Mr. J.Y. Ghurde, A.P.P. for non applicant / State.

CORAM : V. M. DESHPANDE, J.
DATED : AUGUST 29, 2019

Heard Mr. Avdhesh Kesari learned counsel for the applicant and Mr. J.Y. Ghurde learned Additional Public Prosecutor for non-applicant/State. Also perused the reply filed on behalf of the prosecution.

The applicant is apprehending his arrest in connection with Crime No.0451/2019 registered with Police Station, Nandura Dist. Buldhana for the offence punishable under Sections 407, 420 read with 34 of Indian Penal Code.

The wheels of criminal law are set in to motion by Rajesh Sharma. As per his report, he entrusted 210 copper pipe material boxes of which the cost is Rs.61,05,438/- for transportation from Bhivandi-Mumbai to Kolkata on 08.07.2019 to the present applicant, who is a transporter. The consignment was loaded in the truck having registration No. MH-04/HY-4204 belonging to the present applicant. The door of the truck was sealed by the first informant's company supervisor and co-accused driver. The truck driver was

suppose to transport the said consignment to Kolkata. As per the prosecution case, on 10.07.2019 co-accused Dipkumar , the driver, in connivance with the present applicant, created a false story that there was a theft of 30 copper boxes amounting to Rs.13,00,000/- in between Malkapur to Nandura on National Highway No.6 near one Ashirwad Hotel.

The driver is arrested. After the arrest of the driver, the investigating officer could get a lead during the investigation and said lead reveals the CDR report of telephonic talk between co-accused and present applicant and the GPS record shows that said truck was taken to the godown of the present applicant in the intervening night of 08.07.2019 and 09.07.2019.

Interestingly, though it is defence of the applicant that when the truck was in its journey at Ashirwad Hotel, it was looted by some person. But, as on today no complaint in that behalf is lodged with any police station. The learned counsel Mr. Kesari would submit that he tried to lodge FIR, in that respect however, police officer refused to take down the said complaint. It is very easy to make allegation against a police officer. However, no steps were taken by the present applicant to bring this particular fact to the notice of superior police officer, which was always open for the applicant. Thus, this particular aspect is nothing but an attempt to make an eye wash in the present case.

The custodial presence of the present applicant is absolutely necessary in as much as the applicant was the

person in whose custody the valuable articles were entrusted and those were taken out by the applicant with the help of the co-accused surreptitiously and the explanation which is sought to be offered by the applicant is palpably false.

Consequently, there is no merit in application. It needs to be rejected and the same is accordingly rejected.

Needless to say the interim relief granted by this Court (Coram : Manish Pital, J) on 05.08.2019 stands vacated. It is expected that the investigating officer shall take immediate steps against the applicant in accordance with law.

JUDGE