

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

Criminal Application (BA) No. 742 of 2018

Raju Badawat

Vs.

State Through P.S. Wani Dist. Yavatmal

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

Court's or Judge's orders

Mr. R.R. Vyas, Advocate for applicant.
Mr. V.P. Maldhure, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JULY 2, 2019

The applicant herein has approached this Court for grant of regular bail in respect of the incident wherein the applicant and his wife along with three other persons allegedly lifted a new born child from a Government Hospital. According to the prosecution, the applicant and his accused wife were apprehended while they were fleeing away with the new born child.

2. FIR in the present case was registered on 08/11/2017 and the applicant was arrested on the very same day. It has come on record that the other co-accused persons have been released on bail, including the co-accused wife of the applicant, who was released on bail after about four months of incarceration.

3. On 24/08/2018, this Court passed an order recording that the applicant and his co-accused wife are not blessed with any child and that they were ready and willing to adopt a child by initiating necessary process. On this ground, the applicant sought temporary bail. Considering the stand taken by the applicant and in the facts of the present case, on 24/08/2018, this Court granted temporary bail to the applicant in the following terms.

“3. In the aforesaid background, in my opinion, a chance needs to be given to the applicant. Hence, the following order.

ORDER

A) The applicant be released on PR bond of Rs.25,000/- with two sureties in the like amount initially for a period upto 31st October, 2018.

B) The applicant shall demonstrate his *bona fides* and the steps taken by him *qua* the statements made herein above about the adoption proceedings to be taken recourse by the Applicant.

C) He shall file a progress report by 30th September, 2018 and this Court will consider the same on 3rd October, 2018.

D) It is needless to observe that if the Court is not satisfied with the *bona fides* of the Applicant, Court will constrain to cancel the provisional ail granted to the Applicant.

E) The Applicant shall regularly attend the trial and his too consecutive absence will entail cancellation of bail.”

4. Therefore, the present application was listed

before this Court on various occasions when the applicant informed this Court about progress of the process of adoption of child initiated by him. It is submitted on behalf of the applicant that such process is necessarily a time taking process and since sincere and *bonafide* efforts have been made by the applicant for adopting a child, temporary bail granted to the applicant by order dated 24/08/2018, should be confirmed on an undertaking by the applicant that he shall inform the Trial Court about the progress of the process of adoption initiated by him.

5. The learned APP pointed out to this Court that while granting temporary bail by order dated 24/08/2018, this Court did not consider the merits for grant of bail. It is pointed out that the said order was passed in order to test the *bonafides* of the applicant with regard to adoption of child, but, since till date the process of adoption of child has not been completed, the said order of temporary bail ought not to be confirmed and since there was possibility of the applicant indulging in similar activities, confirmation of temporary bail in the present case would not be appropriate.

6. Heard learned counsel for the rival parties and perused the material on record. After order dated 24/08/2018, passed by this Court, on various dates the efforts made by the applicant for adoption of child have been noted by this Court. It appears that the process of

adoption of child is necessarily a time taking process and that since the applicant had remained behind bars for about eleven months and the co-accused have been released on bail, this Court is of the opinion that bail can be granted to the applicant on the conditions on which temporary bail was granted to him by order dated 24/08/2018. As regards the apprehension of the learned APP, appropriate conditions can be imposed.

7. In view of the above, the present application is allowed and the temporary bail already granted to the applicant is confirmed on the conditions specified in paragraph 3 of order dated 24/08/2018, passed by this Court with the modification that instead of filing of progress report before this Court, as regards the process of adoption of child initiated by the applicant, he shall submit such report before the Trial Court every two months during pendency of the Trial Court. The applicant shall continue to make sincere efforts for adoption of child. It is further directed that if the applicant is found to have indulged in any activities similar to one leading to registration of offences against him in the present case, the bail granted to him shall stand cancelled.

8. The application is allowed in above terms.

JUDGE