

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

CRIMINAL APPLICATION (ABA) NO. 651 OF 2019

Suraj Ambadas Ramchoure .Vs. State of Maharashtra, PSO, P.S. Kahmgaon
Gramin, Tq. Khamgaon, Dist. Buldhana.

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

Mr. D.S. Patil, Advocate for applicant.

Mr. V.A. Thakare, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : OCTOBER 11, 2019.

Heard Mr. Patil, learned counsel for the applicant and Mr. Thakare, learned Additional Public Prosecutor for the non applicant-State. Also perused the reply filed on behalf of the State.

The applicant is apprehending his arrest in connection with Crime No.123/2019 registered with Police Station, Khamgaon Gramin, Tq. Khamgaon, Dist. Buldhana for an offence punishable under Section 395 read with Section 34 of the Indian Penal Code.

The learned Additional Public Prosecutor for State would submit that application for anticipatory bail is required to be rejected and the custodial presence of the applicant is absolutely necessary since the present applicant is a close relative of one Dnyandeo Baghe, who is the main accused in the crime. He submits that custodial presence of the present applicant is also necessary for conducting test identification parade.

The reply filed on behalf of the State would show that Crime No.123/2019 was registered against unknown persons on the basis of the report lodged on 03.05.2019 by Bhagwan Jagannath Gorse, a Watchman of Food Corporation of India. As per report, on the day of the incident, 10 to 12 persons by throwing stones, committed dacoity by loading grains kept in the godown in a truck having registration no.MH-28/B-7959. However, it appears from the reply that the attempt of dacoity was foiled by the alert citizens. The persons who were committing dacoity ran away from the spot, leaving the said truck on the spot itself.

The reply filed by the learned Additional Public Prosecutor would show that on the basis of registration of the truck, the investigating officer reached to the owner of the truck by name; Mohan Sharma and driver Shridhar Pathan. They were arrested and were released on bail.

According to the reply, three persons are the main accused. They are; Dnyandeo Baghe, Rathiram Mehenge and Yogesh Sultane and they are also accused in another Crime No.120/2019.

The submission of the learned Additional Public Prosecutor for the State is required to be rejected that merely because the present applicant is close relative, his custodial presence is required. The criminal jurisprudence does not recognize vicarious liability. Another submission of the learned Additional Public Prosecutor is that the custodial presence of the present applicant is necessary for test identification parade. However, he fairly submits that after

arrest of main accused Dnyandeo, the relatives of the present applicant has not identified by prosecution witness when he was put to identification parade.

In that view of the matter, in absence of any admissible evidence against the present applicant, personal liberty of the applicant cannot be curtailed. Resultantly, I pass following order.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.123/2019 was registered with the Police Station, Khamgaon Gramin for an offence punishable under Section 395 read with Section 34 of the Indian Penal Code, applicant -Suraj Ambadas Ramchoure, be released on bail on he executing P.R. Bond in the sum of Rs.10,000/- with one solvent surety in the like amount.
- (iii) Applicant is directed to attend Police Station, Khamgaon Gramin twice in a week i.e. on every Tuesday and Friday and shall be with the investigating officer from 11:00 a.m. to 04:00 p.m. till filing of the charge-sheet.
- (iv) After filing of the charge-sheet applicant shall attend Police Station, Khamgaon Gramin, District Buldhana as and when directed by the investigating officer however for that the investigating officer shall give three days prior written communication to the applicant.

The application is disposed of.

JUDGE