

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

CRIMINAL APPLICATION (ABA) 105 OF 2020

(Nitin s/o. Prabhakar Kade..vs.. State, thr PSO, Yavatmal City, Yavatmal and anr)

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

Court's or Judge's orders.

Shri D.R. Bhoyar, counsel for applicant.
Shri S.M. Ghodeswar, Addl. Public Prosecutor for non-applicants.

CORAM: ROHIT B. DEO, J.
DATE:18.02.2020.

The applicant is arrayed as accused in Crime 60 of 2020, registered with Police Station Yavatmal City for offence punishable under section 7 and 12 of the Prevention of Corruption Act.

2. The submission of the learned counsel is that bribe is admittedly not received by the applicant. The bribe was accepted by co-accused and the applicant was not present in the office. It is further submitted that the applicant is ready to cooperate with the Investigating Officer in conducting spectrography test and shall voluntarily give the voice sample. It is further submitted that the handwriting sample shall also be given.

3. The readiness of the accused to give the sample voluntarily is not decisive. In my considered view, discretion in matters where public servants are alleged to have accepted bribes must be exercised rarely, if at all, at the pre-arrest stage. The case of the prosecution is that in

the verification panchanama its was abundantly clear that it was the present applicant who demanded money. Further, the prosecution has recovered a chit purportedly written by the applicant in which the amount of the bribe and the phone number of the applicant is mentioned. There is, therefore, voluminous material on record, at least at this stage, to implicate the applicant in the crime. Several facets of the crime may be unearthed during the custodial interrogation.

4. I am not inclined to exercise discretion in favour of the applicant, the application is rejected.

Judge