

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

CRIMINAL APPLICATION (ABA) NO. 201/2020

Sudarshan s/o Goapl Urkude .vs. State of Maharashtra, through PSO P.S.
Shegaon, 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. A. S. Siddiqui, Advocate holding for Mr. A. M. Tirukh,
Advocate for applicant.
Mr. A. Madiwale, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : MAY 19, 2020

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

Though Mr. Siddiqui, learned counsel for applicant was heard for quite some time, Mr. Madiwale, learned A.P.P. for non applicant-State would submit that due to prevailing condition in the country, till today, he has neither received case diary nor instructions.

During submissions itself, it was made clear to this Court by learned counsel for the applicant that co-accused Amit Paidalwar and Suresh Bhagat are released on regular bail after considering their applications qua charge-sheet filed by the prosecution.

It is the submission of the learned counsel for applicant that name of the applicant is not reflected in the First Information Report (FIR).

Parameters for grant of pre-arrest bail and bail after arrest are different.

As per the prosecution case, as it could be seen from the FIR, submissions made by the learned counsel for the applicant and the order passed by the learned Judge, who rejected the application for pre-arrest bail, reveal that co-accused Amit Paidalwar introduced complainant Amit Ulhe, a trader with an allurements that after he hands over Rs.5,00,000/- in the denomination notes of Rs.100/-, he will receive Rs.5,00,000/- in the denomination of Rs.500/- and accordingly, as per the say of said co-accused, complainant carried the said huge cash in the denomination of Rs.100/- and at agreed point he handed over the amount. As per the prosecution case, in return, a box was given to him. After opening the said box, after some time, the complainant found that the notes contained in the said box are bogus notes. He, therefore, tried to contact Amit Paidalwar and others however they absconded.

In the order rejecting the application for pre-arrest bail in Khamgaon Court, the learned Additional Sessions Judge has observed that there is a CCTV footage and in the said CCTV footage, the applicant is found to be accepting the amount.

The impugned order is dated 15.01.2020 i.e. much prior to the imposition of lock-down. Therefore, obviously at the time of consideration of the application for pre-arrest bail of the applicant, the case diary and other investigation papers were before the learned Judge of the trial Court.

In that view of the matter, importance has to be attached to the said observations.

As observed in the preceding paragraphs, though other accused persons are granted bail, they are released on regular bail. The amount of Rs.5,00,000/- is yet to be recovered. Further, identification by complainant is having its own importance.

In that view of the matter, I am of the view that the applicant is not entitled to any discretionary relief in the aforesaid circumstances. Ultimately, the application stands rejected.

The order be communicated to the counsel appearing for the parties either on the e-mail address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

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Digitally
signed by
Yogesh
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2020.05.19
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**Yogesh
Kahale**