

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

LD-VC/CRIMINAL APPLICATION (BA) NO. 552 OF 2020

Krishnakant Madhukar Borkar

...Versus...

The State of Maharashtra, Through Police Station Officer, Police Station Channi,
Tq. Patur, Distt. Akola

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

Court's or Judge's orders

Shri. S.P. Bhandarkar, Counsel for applicant
Ms Udeshi, APP for non-applicant

CORAM : AVINASH G. GHAROTE, J.

DATE : 16/07/2020

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

Heard Mr. S.P. Bhandarkar, learned counsel for the applicant, who is being prosecuted for the offence under Sections 420, 409, 465, 468, 471 read with Section 34 of the Indian Penal Code in Crime No.168/2020. By an order dated 02.07.2020, the statement of learned counsel for the applicant that the applicant was willing to deposit Rs.77,000/-, which is attributed to him as being misappropriated, was recorded and the subsequent order dated 09.07.2020, records his further statement that this amount has been so deposited.

Mr. Bhandarkar, learned counsel for the applicant submits that in fact this amount has not been deposited and the statement has been incorrectly recorded. He submits that the applicant is willing to deposit this amount as a condition of bail. He further submits that the entire evidence in the matter is documentary in nature and there is no question of tampering. He further submits that the co-accused has already been granted anticipatory bail by this Court by order dated 14.07.2020 on his depositing the entire defalcated amount in the Vidarbha Konkan Gramin Bank, Channi Branch, Tahsil- Patur, District-Akola.

Learned Additional Public Prosecutor opposes the application contending that the situation of the applicant is different from that of the co-accused Kailas Agrawal who has been released on anticipatory bail as Kailash Agrawal was the Branch Manager and the applicant was the Cashier and therefore, was directly instrumental in the defalcation.

Having considered the rival contentions, in light of the position, that the entire evidence in this matter is documentary in nature, I do not think any fruitful purpose shall be served by keeping the applicant behind bars, specifically when the applicant has shown his willingness to deposit the amount of Rs.77,000/-, misappropriation of which has been attributed to him. Any apprehension by the non-applicant can be taken care of by imposing certain conditions on the applicant. I, therefore, pass the following

order.

(i) The applicant be released on bail for the offence under Sections 420, 409, 465, 468, 471 read with Section 34 of the Indian Penal Code in Crime No.168/2020 registered with Police Station Channi, Taq. Patur, District Akola upon furnishing PR. bond in the sum of Rs. 50,000/- with one solvent surety in like amount, and on depositing the sum of Rs. 77,000/- in the Trial Court.

(ii) The applicant shall report to the Police Station Channi, Tahsil-Patur, District-Akola on every Saturday and Thursday between 3.00 p.m. to 5.00 p.m. and shall co-operate in the investigation.

(iii) The applicant shall not tamper with the evidence or threaten the witnesses in any manner whatsoever.

(iv) The applicant shall first be got tested for Covid-19 Virus by the Jail Authorities twice during the period of next 15 days, and in case the report is negative, he shall be released on compliance with the above conditions.

Criminal Application is accordingly disposed of.

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

JUDGE