

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

CRIMINAL APPLICATION (BA) NO.603 OF 2020

(Akash s/o Dindayal Samaliya Vs. State of Maharashtra thr. PSO PS Katol, Tah. Katol,
Dist. Nagpur)

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

Court's or Judge's orders.

Shri N.R. Tekade, Advocate for Applicant.
Shri J.Y. Ghurde, APP for Non-Applciant/State.

CORAM: ROHIT B. DEO, J.

DATE: 5th OCTOBER, 2020.

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

2] Heard.

3] The applicant is seeking regular bail in Crime 390/2019 registered with Katol Police Station, District Nagpur for offence punishable under section 392, 395 read with section 34 of the Indian Penal Code.

4] According to the prosecution the informant and his colleague were waylaid by six persons who stole the cash of Rs.16,00,000/- which was carried by the informant and his colleague for being deposited in the bank ATM.

5] In the test identification parade the applicant has not been identified. The material which is pressed in service is that six days after the incident the applicant purchased

motor-cycle and that as per the C.D.R. the applicant and the other co-accused were in the same location. *Prima facie*, the recovery of the motor-cycle would be a fragile piece of evidence in the absence of other material to show that the motor-cycle was purchased from the proceeds of the crime. The only material which remains for consideration is the C.D.R. record. The location which is shown is approximate and if the implication is only on the basis of the said record, it must be said that the applicant may have an arguable defence. This of course is a *prima facie* observation made only for the purpose of deciding the bail application.

6] The learned APP Shri Ghurde points out that the applicant has criminal antecedents and as a fact was on bail when he got involved in the crime. Since, I have found that the evidence against the applicant in the crime under consideration is not cogent, at least *prima facie*, bail cannot be refused only on the ground of past record. However, stringent conditions shall have to be imposed.

7] The applicant shall be released on bail subject to the following conditions:

[i] The applicant be released on bail on furnishing P.R. bond of Rs.25,000/- with a surety of like amount.

[ii] Considering the prevailing situation, four weeks time is granted to furnish surety.

- [iii] If the applicant is involved in any similar offence, that itself may be a good ground for the prosecution to seek cancellation of bail.
- [iv] The applicant shall report at the Katol Police Station every Monday till the conclusion of the trial. The applicant shall report between 11:00 a.m. to 01:00 p.m. and shall obtain the acknowledgment of the police station in a separately maintained attendance diary. The monthly extract of the attendance diary shall be produced by the applicant on the dates of hearing and failure to do so shall entitle the prosecution to seek cancellation of bail.
- [v] The applicant shall not directly or indirectly make any attempt to influence the witnesses.
- [vi] The applicant shall not leave the country without permission of the jurisdictional court.

JUDGE