

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

CRIMINAL APPLICATION (ABA) NO.384 OF 2020

(Subhash Motiram Ingale Vs. State of Maharashtra thr. PSO PS Shirpur, Tq.
Malegaon, Dist. Washim)

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

Court's or Judge's orders.

Mr. J.B. Gandhi, Advocate for Applicant.
Mr. M.K. Pathan, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 26th NOVEMBER, 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 pre-arrest protection in Crime 239/2020 registered with the Police Station Shirpur for offences punishable under section 409, 420, 466, 471 read with section 34 of the Indian Penal Code.

4. This is a second application for pre-arrest protection.

5. The applicant earlier approached this Court vide Criminal Application (ABA) 77/2020. This Court was not

inclined to entertain the application and the application was therefore, withdrawn. This Court has recorded the disinclination to entertain the application and the consequent withdrawal in the order dated 20.02.2020.

6. The applicant has disclosed that the earlier application was withdrawn and the order dated 20.02.2020 is also placed on record. However, the filing of the successive application is justified in paragraph 11 of the application, which reads thus:

11] It is most humbly submitted that the present applicant has submitted an application for grant of anticipatory bail on 23-12-2019, however the Hon'ble Sessions Court, Washim has rejected the said application on 04-01-2020. Accordingly, the present applicant has filed an application before this Hon'ble Court for grant of anticipatory bail vide Cri. Appln. [ABA] No. 77 of 2020. However, the said application was withdrawn by the present applicant. Copy of the said order dated 20-02-2020 is annexed herewith as Annexure-C. That earlier even the Block Development Officer has also submitted an application for grant of anticipatory bail but the same was rejected. However, he has again submitted Misc. Cri. Appln. No. 54/2020 on the ground that the Block Development Officer has to look after the administrative work and there is a Govt. notification issued on 28-01-2020 wherein the Govt. has given direction that Block Development Officer is responsible for administrative work and no responsibility has to be fixed about technical things like valuation, difference in revaluation, suspended funds. That after examination of the said G.R. the Hon'ble Sessions Court have allowed the said application

and concession of anticipatory bail is granted to Block Development Officer by order dated 17-03-2020. Copy of the said order is annexed herewith as Annexure-D.

7. Perusal of the circular/notification dated 28.01.2020 would reveal that the same is restricted to Block Development Officer and is issued to protect the said officer who according to the notification plays only an administrative role in the implementation of the scheme. It is not necessary for this Court to make any decisive observation on the legality of the said circular/notification. Suffice it to note, that if a cognizable offence is made out, such circular/notification cannot be possibly confer immunity from prosecution. Nothing further need be observed since the applicant is not BDO and was working as an Accounts Officer.

8. This Court is of the considered view that there is no change in circumstance as would warrant entertaining a second application, and the application merits dismissal on this short ground.

9. The application is dismissed.

JUDGE