

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

LD-VC/CRIMINAL APPLICATION (BA) NO.172/2020

Chetan s/o Ishawardas Hiwarkar and another
...Versus...
State of Maharashtra, Through PSO, P.S. Paratwada, Tq. Achalpur, Dist.
Amravati

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

Court's or Judge's orders

Shri Hitesh Biherani, Counsel for applicants
Shri J.Y. Ghurde, 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 Shri Biherani, learned Counsel for the applicants, who submitted that the applicants are entitled to be released on bail.

Shri Ghurde, learned Additional Public Prosecutor for the non-applicant, however, at this juncture, brings to my notice that the applicants have been released on interim bail by the District and Sessions Judge, Achalpur by an order dated 19/6/2020 passed in Sessions Case No.16/2020. The present bail application, filed on 21/5/2020 was listed on 26/5/2020 on which date, this Court issued notice. When the matter was

again listed on 9/7/2020, time was sought by the learned Additional Public Prosecutor, which was granted. Today, also the learned Counsel for the applicants had started arguing for release of the applicants on bail on merits. It is, at this juncture, that the fact of release of the applicants on interim bail was brought to the notice of this Court by the learned Additional Public Prosecutor, which order of interim bail has been placed on record at page 184, which was only till 15/7/2020 and which further directed the applicants to surrender before the Court on expiry of the above period. When a query was put to the learned Counsel for the applicants, whether the applicants have surrendered, he submits that the order of interim bail has been extended by the learned Sessions Court for a further period of 30 days. This clearly indicates that the learned Counsel for the applicants was having knowledge of the fact that the Sessions Court has released the applicants on interim bail till 15/7/2020, which was extended by a further period of 30 days.

It is material to note that no disclosure of this position has been made either on 9/7/2020 or today when the matter commenced, by the learned Counsel for the applicants. This clearly indicates suppression of a vital aspect of the matter on the part of the learned Counsel for the applicants, when it was permissible for him to place on record, by way of a pursis or otherwise, either on 9/7/2020 or thereafter the fact of passing of the interim order dated 19/6/2020. This suppression on the part of the applicants clearly indicates that they have not been fair with the Court, as a result of which conduct, I am not

inclined to entertain the present application, purely on this ground of suppression. The criminal application is, therefore, dismissed on account of suppression of material fact.

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

Wadkar

Shailendra
Wadkar

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Shailendra
Wadkar
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