

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

CRIMINAL APPLICATION (ABA) NO. 723 OF 2020

(Vikas s/o Tulsiramji Kalambe ..vs.. State of Maharashtra, through PSO, Khaperkheda)

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

Court's or Judge's orders

Mr. S.G. Karmarkar, Counsel for the applicant,
Mrs. Kalyani Deshpande, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 16-12-2020

Heard.

2. This application is a gross abuse of the process of law and unfortunately the tendency to file successive applications, despite the earlier rejection on merits, is increasing. While successive applications can indeed be moved, if such applications are moved without any significant change in circumstances, the valuable time of the Court is inevitably wasted. Although the law is well settled, and which is that it would only be if there is a significant and not cosmetic change in circumstances that successive applications for bail can be entertained, unfortunately litigants, who are probably not effectively advised or sincerely advised, keep on flooding the Court with successive bail applications and at times the intent is bench hunting.

3. Adverting to the merits of the present application, the applicant approached this Court in Criminal

Application (ABA) 343/2020 for pre-arrest protection. By a reasoned order dated 16-10-2020 this Court dismissed the application. While rejecting pre-arrest protection, this Court observed that custodial interrogation is indispensable. The allegations against the applicant are grave and if the charge culminates in conviction, life sentence is a possibility. This Court found that *prima facie* there is more than ample material connecting the applicant with the crime. The complicity of the applicant in the fraud perpetrated was noted, although the observation was *prima facie* in nature.

4. According to the learned Counsel Mr. S.G. Karmarkar, the change in circumstances as would justify the filing of the successive application is that after the rejection of the pre-arrest protection vide order dated 16-10-2020, the applicant was called by the Investigating Officer, the remaining part of the investigation was completed and the specimen handwriting of the applicant was obtained.

5. The learned Additional Public Prosecutor Mrs. Kalyani Deshpande states, on instructions, from the Investigating Officer, that the applicant is making false statements on oath. According to the Additional Public Prosecutor Mrs. Kalyani Deshpande whatever was done was while the applicant was on interim protection and that there was no investigation possible whatsoever after

the rejection of the bail vide order dated 16-10-2020.

6. The assertion that after the rejection order dated 16.10.2020, the applicant was summoned in the Police Station, the remaining part of the investigation completed and handwriting specimen obtained, is made on oath, as is clear from paragraph 11 of the Application which read thus:

“11. It is submitted that after the rejection of the application the applicant was called in the police station and the remaining part of the investigation has been completed. It is submitted that the applicant’s specimen handwriting was obtained before the Panchas and one copy of the seizure Panchanama was supplied to the applicant. A copy of the same is filed as Annexure E”.

7. I summoned the case diary since the liberty of the applicant is involved and the learned APP Mrs. Kalyani Deshpande categorically refuted the assertion that the handwriting specimen was obtained after the rejection order dated 16.10.2020. The learned APP Mrs. Kalyani Deshpande submitted that it was during the interim protection period that the handwriting specimen was taken, however, the investigation is not complete and nothing was done after the rejection order dated 16.10.2020 since the applicant was not available for interrogation. The learned APP Mrs. Kalyani Deshpande points out that this Court has already held that custodial interrogation is indispensable.

8. Perusal of the case diary reveals that the learned APP Mrs. Kalyani Deshpande is right in her submission that the handwriting specimen was collected much before the rejection order dated 16.10.2020. Perusal of the case diary and the relevant entries reveals that as a fact it was on 02.08.2020, while the applicant was enjoying interim pre-arrest protection that the handwriting specimen was obtained.

9. It is crystal clear that the applicant has no respect for the majesty of law. Notice is secured from a learned Judge, on the strength of the submission that after earlier pre-arrest protection application was rejected on merits, the applicant was summoned in the Police Station and his handwriting specimen obtained. A false statement is deliberately and contemptuously made on oath and prima facie, the attempt is to pollute the purity of the stream of justice. The fate of the Application is sealed. The Application deserves unceremonious rejection, and is accordingly rejected. However, lest the faith of the common man, the legal fraternity, the Investigating Agency and the victims of the crime in the justice dispensation system is eroded, notwithstanding the dismissal of the Application, serious view will have to be taken of the brazen and contemptuous falsehood, not only uttered in the Application, but presented to the High Court while

securing notice.

10. I am more than satisfied that prima facie, the applicant is guilty of gross criminal contempt.

11. The Registrar (Judicial) shall place the papers before the appropriate Bench for considering whether the applicant Vikas s/o. Tulsiramji Kalambe is liable to be proceeded against for criminal contempt.

JUDGE

adgokar/belkhede