

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

CRIMINAL APPLICATION (BA) NO. 680 OF 2019

(Pawan Kumar @ Mogali s/o Durgapalsingh Thakur, Najafgarh Sout West Delhi Vs. State of Maharashtra, thr. PSO Tumsar, District Bhandara)

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

Court's or Judge's orders.

Shri A.K. Madne, Advocate for the applicant.
Shri N.B. Jawade, A.P.P. for the non-applicant.

CORAM : PUSHPA V. GANEDIWALA, J.
AUGUST 20, 2020.

Heard Shri Madne, learned counsel for the applicant and Shri Jawade, learned A.P.P. for the non-applicant/State through Video Conferencing.

2. The applicant is said to be arrested in connection with Crime No. 439/2017 dated 19/12/2017 registered at Police Station, Tumsar, District Bhandara for the offence punishable under Sections 395, 398, 342 and 364 of the Indian Penal Code, 1860 (for short "IPC"), Sections 3 and 25 of the Arms Act, 1959 and Section 135 of the Maharashtra Prohibition Act, 1949 (for short "Act of 1949").

3. The case of the prosecution is that the present applicant and the other co-accused attempted to broke open ATM of the State Bank of India, Branch – Tumsar. The informant is the sole eye-witness of the incident. In his report, he has given all the details of the incident.

4. It is stated that the present applicant and the other accused came to be arrested on the basis of mobile location. It is further stated that some of the co-accused are still absconding.

5. Undisputedly, the informant - sole eye-witness could not identify the present applicant during test identification parade. The present applicant is said to be a student, aged around 23 years. Though, the earlier bail application of the applicant was dismissed as withdrawn by this Court vide order dated 30/08/2018 passed in Criminal Bail Application No. 726/2018, the order dated 09/03/2020 below this application shows inclination to allow the application on the ground that the sole eye-witness could not identify the present applicant and he has no criminal antecedent and is a student. The application could not be disposed of on that day as the request was made by the prosecution for grant of time to trace out the criminal antecedents of the applicant.

6. Even after giving sufficient time, the prosecution could not trace out the criminal antecedents of the applicant. On the other hand, the learned counsel for the applicant filed a pursis with information from the concerned Police Station showing that the applicant has no criminal antecedent.

7. Be that as it may, as this Court has already expressed its inclination to grant bail and the prosecution could not point out any good ground for opposing the bail application, this Court is of the opinion that by imposing stringent conditions, the present applicant can be released on bail. Hence, the following order :-

ORDER

- i) The Criminal Application is allowed.
- ii) The applicant be released on bail on his furnishing PR bond in the sum of Rs.25,000/- with one local surety in the like amount.
- iii) The applicant shall not pressurize or issue threats to the witnesses.
- iv) The applicant shall not tamper with the prosecution evidence.
- v) The applicant to supply his residential address and mobile number to the concerned police station and shall not change the same, pending trial.
- vi) The applicant shall not leave the local jurisdiction without prior intimation to the concerned police station.
- vii) The applicant to attend the concerned police station on every first Thursday of each month between 12.00 noon to 2.00 pm.

8. The Criminal Application is disposed of accordingly.

9. The observations made above is only for deciding the bail application and it shall not prejudice the case of the prosecution during trial.

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

Criminal Application (APPP) No. 1209/2019.

In view of disposal of bail application, this application is rendered infructuous and the same is accordingly disposed of.

JUDGE