

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

CRIMINAL APPLICATION (ABA) NO.88 OF 2021

(Jivrajbhai s/o Ratanshi Patel Vs. State of Maharashtra thr. PSO PS Kalamna, Tah. &
Dist. Nagpur)

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

Court's or Judge's orders.

Mr. N.V. Fulzele, Advocate for Applicant.
Mr. S.S. Doifode, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 2nd MARCH, 2021.

The applicant is apprehending arrest in Crime 699/2017 registered with Police Station Kalamna, Nagpur for offences punishable under Sections 420, 468, 471, 447, 448, 427 and 506 read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of the report dated 01.11.2017 lodged by Suresh Dani.

3. It is alleged in the report that in the year 1998 five to six persons, one of whom disclosed his name and identity as Jivraj Patel, President of Maa Umiya Society (applicant herein) came to the plot owned by the informant and claimed to have purchased the same from Narayandas Sugandh the President of Navprabhat Bhumi Vikas Sanstha, Nagpur.

4. The next allegation in the report is that in February, 1999 the applicant accompanied by 50 to 60 labours demolished the compound and the temporary structure of the applicant and other plot owners and took forcible possession.

5. In the entire report, there is absolutely no explanation to justify the delay of approximately eighteen years in approaching police.

6. The applicant approached the learned Sessions Judge seeking pre-arrest protection. It appears that interim pre-arrest protection was granted, which continued for more than 3½ years and ultimately vide order dated 09.02.2021 the pre-arrest protection application came to be rejected.

7. Considering that a grievance is made after the lapse of eighteen years, the applicant is entitled to protection.

8. The learned APP Mr. Doifode submits that the applicant may not be protected in view of adverse antecedents. Mr. Doifode would submit that the applicant is facing as many as three prosecutions under Sections 420, 465, 467, 468 and 471 of IPC. I have considered the submission. Notably, notwithstanding that three prosecutions are registered, it not even the case of the

prosecution that the applicant poses a flight risk or that he is likely to tamper with evidence. The applicant has attended the police station as directed. In any event, considering that the crime in connection with which the instant application is moved, is registered after eighteen years of the alleged incident, notwithstanding the earlier three prosecutions, I am inclined to protect the applicant.

9. The interim pre-arrest protection granted vide order dated 16.02.2021 is made absolute with the only modification that till the filing of the charge-sheet, the applicant shall attend the concerned police station, as and when required by the Investigating Officer.

JUDGE