

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

CRIMINAL APPLICATION (ABA) NO.144 OF 2021

(Abdul Gaffar Nabi s/o Hasrat Amrullah Haji Nabi Vs. State of Maharashtra thr. PSO
PS Hingna, Tah. Hingna, 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. A.B. Mirza, Advocate for Applicant.
Mr. I.J. Damle, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 15th MARCH, 2021.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The applicant is apprehending arrest in Crime 34/2021 registered with Police Station Hingna, District Nagpur for offences punishable under Sections 420, 408 read with Section 34 of the Indian Penal Code.

3. The offence is registered on the basis of first information report dated 28.01.2021 lodged by Mr. Agnihotri on behalf of M/s. ITD Cementation India Private Limited.

4. The alleged incident, even according to the report, occurred between 07.09.2020 to 19.09.2020.

The gist of the allegation is that on 25.09.2020 it was noticed that the weight of two trucks employed by the applicant – accused, to whom the contract to lift the scrap material was awarded, showed significantly less on the weighing bridge, than the actual weight. On the basis of the alleged discrepancy, the complainant alleges that the applicant – accused carried away 148 MT scrap material in excess in the sense that the weight of which was not recorded.

5. I have perused the material in the case diary. The report is lodged belatedly. The Technical Officer of the company which manufactured the weighing bridge inspected the weighing bridge on 30.09.2020 and did not notice any evidence of tampering. The applicant filed a commercial suit before the Delhi Court and the report is lodged only thereafter. The submission of Mr. Mirza that the belated report is in retaliation, cannot be brushed under the carpet.

6. The applicant has made out a case for exercise of discretion.

7. In the event of arrest in Crime 34/2021 registered with the Police Station Hingna, District Nagpur for offences punishable under Sections 420, 408 read with Section 34 of the Indian Penal Code, the applicant shall be released on furnishing personal bond of Rs.25,000/- with a

surety of like amount. Considering the prevailing situation, surety may be furnished within four weeks.

8. The applicant shall attend Police Station Hingna, District Nagpur on 2nd and 3rd April, 2021 from 11:00 a.m. to 03:00 p.m. and shall co-operate with the Investigating Officer.

9. The applicant shall not make any attempt to influence the witnesses or tamper with the evidence.

10. The applicant shall not leave the country without permission of the jurisdictional court.

11. The application is disposed of.

JUDGE