

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

CRIMINAL APPLICATION (ABA) NO. 175/2021

Ashruba Onkar Gawai
VERSUS
State of Maharashtra

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

Court's or Judge's Orders

Shri A. H. Daga, Advocate for applicant.
Shri M. J. Khan, APP for non-applicant/State.

CORAM : VINAY JOSHI, J.
DATE : 04.08. 2021.

Heard.

2. Apprehending the arrest in Crime No. 11/2020 registered with Khamgaon City, Dist. Buldhana for the offence punishable under Sections 409, 420, 468, 471 read with Section 34 of the Indian Penal Code, the applicant is seeking for pre-arrest protection. This Court has earlier granted interim protection vide order dated 19.03.2021 which is prevailing till date. The State resisted bail by filing reply-affidavit. It is contended that the offence is of serious nature and custodial interrogation is necessary.
3. Learned counsel for the applicant submitted that the applicant is old aged villager who

2

has no concern with the crime. It was the prosecution case that co-accused rather main accused namely Rajesh Chopde, Talathi of Khamgaon City has made several fictitious revenue entries. Applicant's name was entered to one of the plot which applicant allegedly sold to third party. It is explained by learned counsel for the applicant that the applicant's signature was obtained on sale-deed under the impression of making correction to the revenue record. According to the applicant, neither his name is mentioned in First Information Report (FIR), nor charge-sheet. Moreover, the case is based on documentary evidence.

4. Learned counsel for the applicant has placed on record two orders passed by this Court in Criminal Bail Applications LDVC Cri. ABA No. 689/2020 and Criminal Application (ABA) No. 338/2020 to impress that two similarly situated persons have been protected by this Court long back. I have gone through the detailed order passed by this Court in Criminal Bail Applications LDVC Cri. ABA No. 689/2020 wherein this Court has protected similarly situated person primly on the ground that neither his

3

name is mentioned in FIR nor in the entire charge-sheet. It was also taken note that even charge-sheet under Section 299 of the Code of Criminal Procedure was not filed against him. The case of applicant stands on similar footing as his name is not mentioned in charge-sheet nor charge-sheet is filed against him under Section 299 of the Code of Criminal Procedure which is not in dispute. There is no reason to deny the similar treatment to the applicant which others have got. The applicant is a 70 years of age and the matter largely pertains upon the documentary evidence. The investigation pertains to the applicant can go on by directing him to join the course of investigation. In view of that, applicant has made out a case to grant of pre-arrest bail, hence following order:-

(I) Ad-interim order dated 19.03.2021 is hereby made absolute with further direction that applicant shall attend concerned Police Station as and when called.

(II) Application stands allowed and disposed of.

JUDGE

Gohane.