

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

CRIMINAL APPLICATION (BA) NO. 405 OF 2021

Vijay S/o. Sukhdev Lokhande Vs. State of Maharashtra and Anr.

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

Court's or Judge's orders

Shri S. V. Sirpurkar, Advocate for the applicant.
Shri M. J. Khan, A.P.P. for the non-applicant/State.

CORAM : AMIT B. BORKAR, J.

DATE : 11/05/2021.

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure, the applicant is seeking bail in connection with Crime No.246/2021 registered with the non-applicant – Police Station for the offence punishable under Section 7 of the The Prevention of Corruption Act, 1988.
3. The First Information Report came to be registered against the applicant with the allegations that the Government of Maharashtra has framed a policy in pandemic for providing free gains to the public at large through the fair price shops who have license to distribute essential commodities. It is alleged that an amount of Rs. 55,000/- was

sanctioned to the complainant since he was looking after the fair price shop of one Ashok Bidwe. It is alleged that Supply Inspector, Akola Rural Class-III Shri Nilesh Kalaskar demanded an illegal gratification amount of Rs.5,500/- for disbursement of cheque to the complainant towards sanctioned amount of Rs. 55,000/-. It is alleged that punchnama was conducted and trap was laid. It is alleged that on the basis of verification panchanama the investigation was set into motion.

4. During the course of investigation, one Shri Nilesh Kalaskar came to be arrested on 07.04.2021 and his statement came to be recorded. It is stated in the statement of Nilesh Kalaskar that, he has named the present applicant who was working as Tahasildar and the applicant came to be arrested on 16.04.2021. The applicant therefore, filed an application under Section 439 of the Code of Criminal Procedure before the learned Sessions Judge, Akola which came to be rejected by impugned order.

5. The applicant has therefore, filed present application invoking jurisdiction of this Court under Section 439 of the Code of Criminal Procedure.

6. Shri S. V. Sirpurkar, learned Advocate for the applicant submitted that the applicant is not named in the First Information Report. He submitted that it is only during investigation his name came to be included as accused on the basis of statement of Nilesh Kalaskar. It is submitted that the applicant is arrested on 16.04.2021. It is submitted that the custodial interrogation of the applicant is no longer necessary. It is submitted that the applicant is ready to abide by any condition which would be imposed by this Court.

7. Shri M. J. Khan, learned A.P.P invited my attention to the provision of Section 7 of the Prevention of Corruption Act. He submitted that there is *prima facie* material to implicate the present applicant for offence under Section 7 of the Prevention of Corruption Act. He submitted that taking into consideration gravity of the offence alleged against the applicant, the applicant does not deserves to be enlarged on bail.

8. I have carefully considered the allegations in the First Information Report and the reply filed by the non-applicant No.2. On careful consideration of the reply filed by

the non-applicant No.2, it appears that the non-applicant No.2 has stated that the applicant came to be arrested on 16.04.2021. It has been stated in paragraph 4 of the reply that during the course of investigation, the Investigating Officer has collected relevant documents in respect of the scheme and the other documents from the office of Supply Department. It is further stated that the Investigating Officer has recorded statement of witnesses.

9. Having considered the statements in the reply filed by the non-applicant No.2, I am of the opinion that the applicant has made out *prima facie* case for grant of bail under Section 439 of the Code of Criminal Procedure. In view of statements in paragraph 4 of the reply, custodial interrogation of applicant is no longer necessary as the Investigating Officer has collected relevant material and recorded statement of witnesses. The apprehension expressed by the Investigating Officer that the applicant shall pressurize the witnesses and he will tamper the evidence of the prosecution can be taken care of by imposing appropriate conditions.

10. I therefore, pass the following order :

i] The applicant shall be released on bail on furnishing P.R. Bond of Rs.40,000/- (Rs. Forty Thousand Only) and surety to the like amount.

ii] The applicant shall co-operate with the investigation and shall make himself available for interrogation whenever required.

iii] The applicant shall not directly or indirectly make any inducement, threat or promise to any witnesses acquainted with the facts of the case and shall not to distract them from disclosing such fact to the Investigating Officer.

iv] The applicant shall not obstruct or hamper the police investigation and shall not play mischief with the evidence collected and yet to be collected by the police.

v] The applicant shall not enter the limits of district Akola unless required by the Investigating Officer.

The application stands allowed in the above terms.

JUDGE