

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

CRIMINAL APPLICATION (APPLN) NO. 53 OF 2021

State of Maharashtra, thr. P.S.O.

..vs..

Mohammad Imran Mohammad Yakub

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

Court's or Judge's orders

Shri S.A. Ashirgade, A.P.P. for applicant/State.
Shri Parvez Mirza, Advocate for non-applicant.

CORAM : VINAY JOSHI, J.
DATED : 01/10/2021

Heard.

2. This is an application seeking for cancellation of pre-arrest bail granted by the Trial Court vide its order dated 01.03.2021 in Criminal Bail Application No.194 of 2021. Cancellation is sought on the ground that, the Trial Court erred in appreciating the material on record.

3. Learned A.P.P. appearing for the applicant/State would submit that First Information Report bears a reference of non-applicant/accused as a main conspirator. According to him, since the role of the non-applicant has been stated in the First Information Report itself, therefore, it is not a fit case to grant pre-arrest bail.

4. There cannot be set rule that only because name of accused is mentioned in the First Information Report, his liberty cannot be protected. Always, it depends upon the facts and circumstances of each case. The informant stated that the occurrence took place on 17.02.2021. He stated the names of three assailants with their particular role. Besides, that he added that at the instance of the non-applicant, the assailants did the things. Thus, as per the informants own case, the non-applicant was not present at the time of occurrence, but he is a conspirator.

5. Perusal of statement of injured, which was recorded after six days, discloses that the injured nowhere expressed any suspicion against the non-applicant. Learned Counsel for the non-applicant has produced a copy of application filed by the injured to the Police dated 18.03.2021 wherein, injured stated that there was no role of the non-applicant in the incident, however, under misconception his name is stated by his brother-informant.

6. Be that as it may, besides expressing a suspicion of hatching conspiracy, there is no material against the non-applicant. The Trial Court has expressed that incriminating material is recovered from the other co-accused and there is no need of custodial interrogation. On the basis of mere suspicion, liberty cannot be curtailed. Besides that there is no allegation that the non-applicant during

last six months has misused the liberty.

7. Having regard to all these facts, there is no merit in the application, hence, stands rejected.

JUDGE

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