

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

CRIMINAL APPLICATION (BA) NO.945 OF 2021

Gopal s/o Chandrabhan Hadole (In jail)

..vs..

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

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

Court's or Judge's orders

Shri A.A. Naik, Advocate for applicant.
Shri H.D. Dubey, A.P.P. for non-applicant/State.
Shri Anil Mardikar, Senior Advocate – Assisting Prosecution.

CORAM : VINAY JOSHI, J.
DATED : 28/10/2021

Heard.

2. The applicant is seeking regular bail in Crime No.176 of 2021 registered with Ramdaspath Police Station, District Akola for the offence punishable under Sections 420, 423, 465, 468, 471, 197, 198, 120-B read with Section 34 of the Indian Penal Code.

3. The applicant claimed bail on the ground of innocence, false implications, inadequacy of evidence, completion of investigation, etc,. The non-applicant/State resisted bail by filing reply-affidavit. It is contended that the applicant has committed serious offence of forgery and fraud. He has forged document of cancellation of an agreement to sell for his own benefit. Moreover, it is contended that, in order to create defence in the complaint filed

under Section 138 of the Negotiable Instruments Act, false document has been prepared.

4. The informant is a practicing Chartered Accountant at Akola. The applicant had filed a report against the informant, which was registered vide Crime No.757 of 2020 with Khadan Police Station, District Akola for the offence of fraud and forgery. In connection with the said crime, the informant has applied to the Court of Sessions for grant of pre-arrest bail. In said bail application, the applicant being informant has intervened and to resist the application, has filed certain documents. It is alleged that in said bail application, applicant has filed document dated 18.09.2018 pertaining to cancellation of earlier agreement to sell. It is alleged that the applicant has forged page nos. 3 and 4 of said documents for the purpose of cheating.

5. Learned Counsel for the applicant by denying the allegation contended that initially, the document was prepared differently. Page nos. 3 and 4 which was alleged to be forged, was though signed by both sides, however it was not materialized. In order to bring entire transaction before the Court, he has filed the entire executed notarized canceled documents as well as filed allegedly forged page nos. 3 and 4 for perusal of the Court. It is the submission that since the applicant has filed both documents, it is quite evident that he never intended to create false documents. The

other side has not disputed the factual aspect that both documents were produced in the Trial Court.

6. According to the informant, he has obtained report from Handwriting Expert, stating that alleged part of documents i.e. page nos 3 and 4 of the agreement, is forged one. In fact, it is a matter of trial to establish forgery. The Police have completed investigation and filed charge-sheet in the Court. The applicant has already faced custodial interrogation and is in the Magistrate custody. The alleged forged document is also seized by the Police. The case is exclusively triable by the Magistrate. Though some antecedents are shown, however, having regard to the nature of accusation and stage of investigation, they cannot be taken into account. The applicants' custody is no more required. The applicant has made out a case for grant of regular bail, hence, the following order :

- (a) The Criminal Application stands allowed.
- (b) The applicant/accused Gopal s/o Chandrabhan Hadole be released on bail in connection with Crime No.176 of 2021 registered with Ramdaspath Police Station, District Akola for the offence punishable under Sections 420, 423, 465, 468, 471, 197, 198, 120-B read with Section 34 of the Indian Penal Code on his furnishing P.R. bond in the sum of Rs.50,000/-

with one surety in the like amount.

- (c) The applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence

JUDGE

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