

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

CRIMINAL APPLICATION (BA) 1070 OF 2021

(Sangram Maheshrao Thorat..vs.. State, thr PSO, PS Yavatmal (City) Tahsil District Yavatmal)

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

Court's or Judge's orders.

Mr. U.P. Dable, counsel for applicant.
Mrs. K.R. Deshpande, APP for non-applicant/State.

CORAM: ROHIT B. DEO, J.
DATE: 27.10.2021.

Heard.

2. The applicant is seeking bail in connection with Crime 869/2018, registered with Police Station, Yavatmal City, for offences punishable under sections 420, 468, 471, 472, 474 of Indian Penal Code ("IPC").

3. The gist of the report which is lodged by the District Mining Officer, Yavatmal, at the City Police Station, Yavatmal, on 12.9.2018, is thus:

One Milan Baban Ghorpade emerged as the successful bidder in sand ghat auction. The successful bid was Rs. 75,00,786/- (Rupees Seventy Five Lacs Seven Hundred Eighty Six) which was duly deposited in the Government account. However, Milan Ghorpade could not

excavate the sand due to certain orders passed by this Court.

It is alleged that a document purporting to be an order dated 18.6.2018, signed and issued by the Deputy Secretary, Revenue and Forest – Mr. Dinesh Chavan, and purporting to sanction the refund of bid amount to Milan Ghorpade was produced before the District Mining Officer.

4. On the basis of such allegations, City Police Station, Yavatmal, registered offences under sections 420, 468, 471, 472, and 474 of IPC and the applicant and one Madhav Bhujangrao Gawali are arraigned as accused, while Madhav Gawali is absconding, the applicant is arrested on 4.9.2021. At present, there is no material to suggest that the applicant was absconding. I have not come across any notice under section 41 of the Criminal Procedure Code or for that matter any material in the case diary, to show that efforts were taken to locate and apprehend the applicant and he evaded arrest.

5. In so far as the merits of the application, it is fairly not disputed by the learned APP Mrs. K.R. Deshpande that since Milan Ghorpade could not enjoy the fruits of the successful bid, it is quite possible that he may have

succeeded in obtaining a refund by adopting legitimate means. I have come across the statement of witness “U.K.” from which it appears that the said witness introduced the applicant to the co-accused Madhav Gawali, who assured to expedite the refund order. Notably, such proceedings seeking refund were indeed pending before the Hon’ble Minister. The gist of the statement of the witness is that in good faith Madhav Gawali was assigned the work to expedite the refund order and it is Madhav Gawali, who handed over the refund order to the applicant, who in turn delivered the same to Milan Ghorpade – the successful bidder. While Milan Ghorpade has stated that the applicant was known to a relative and it was the applicant, who assured to get the work done, at this stage, the possibility that the applicant is a victim rather than culpably involved, cannot be ruled out altogether.

6. In my considered view, there is no propriety in continuing with the incarceration since the release of the applicant on bail, is not likely to hamper the investigation.

7. The application is allowed subject to the

following conditions:

(i) The applicant be released on bail in connection with Crime 869/2018, registered with Police Station, Yavatmal City, for offences punishable under sections 420, 468, 471, 472, 474 of Indian Penal Code, on executing PR bond of Rs. 16,000/- (Rupees Sixteen Thousand) with one solvent surety of the like amount.

(ii) The applicant shall attend Police Station, Yavatmal City as and when required by the Investigating Officer.

(iii) The applicant shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the evidence.

(iv) The applicant shall not leave the country without the permission of the trial Court.

Judge