

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

CRIMINAL APPLICATION (BA) NO.1217 OF 2021

(Sheikh Ashim s/o Sheikh Rashid ..vs.. State of Maharashtra through PSO Wathoda,
Nagpur)

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

Court's or Judge's orders.

Mr. S. S. Nerkar, Advocate for Applicant.
Mr. M. K. Pathan, APP for Non-Applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 18-12-2021.

Earlier bail application was disposed of as withdrawn vide order dated 30-6-2021 in Criminal Application (BA) 524 of 2021 after recording disinclination to grant bail.

2. However, liberty was granted to the applicant to approach this Court again, if the charge is not framed within four months.

3. This application is preferred on the premise that since the charge is not framed, the applicant is entitled to invoke the liberty.

4. This Court passed the following order on 2-12-2021.

“Despite the rejection of the earlier bail application vide order dated 30.06.2021 in Criminal Application (BA) 524/2021, the successive application is preferred on the premise that liberty to approach this Court again was granted if charge is not framed within four months.

2. The application does not aver that the order dated 30.06.2021 was brought to the notice of the trial court.

3. In matters after matters, I have come across cases where liberty is obtained, and the order is not placed before the trial Judge at all. The writ forwarded by the registry invariably reaches the trial court or at least the trial Judge after a considerable period.

4. I have no hesitation in my mind that a sharp practice is being adopted.

5. The registry shall ensure that if a successive bail application is preferred on the ground that the trial court has not proceeded with the trial within a particular period, the application shall contain a statement on oath that the order granting liberty and prescribing a time schedule is communicated by the accused or his counsel to the trial Judge. The applicant shall also mention the date on which the order is brought to the notice of the trial Judge.

6. The applicant shall file on record an affidavit of a responsible person who has verified the record stating when, if at all, the order dated 30.06.2021 was brought to the notice of the learned trial Judge.”

5. Today, an affidavit is filed by the learned counsel

for the applicant, who has verified the record and has also graciously enquired from the Registry. The learned counsel has fairly stated that the order dated 30-6-2021 was not brought to the notice of the learned trial Judge nor was a writ issued, much less, communicated by the Registry.

6. In this view of the matter, I am not inclined to entertain the application for bail at this stage.

7. The applicant shall place on record of the trial Court the order dated 30-6-2021 in Criminal Application (BA) 524 of 2021 and this order within the next seven days.

8. If the orders are placed on record within the next seven days either by the applicant or his counsel and the charge is not framed within the next four months, the applicant shall be entitled to renew the prayer for bail before this Court.

9. This application is disposed of in the above terms.

JUDGE

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Digitally signed by AVINASH
YUVRAJ WASNIK
Signing Date: 18.12.2021 17:59