

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

CRIMINAL APPLICATION (ABA) NO.03 OF 2022

(GANESH SHRIPAT NAGMOTE....VS.. STATE OF MAH. THR. PSO PS WARDHA.)

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

Court's or Judge's orders

Shri M.N.Ali, Advocate for Applicant.
Shri S.D.Sirpurkar, A.P.P. for Non-applicant No.1/State.

CORAM : ANIL S. KILOR, J.
DATED : FEBRUARY 18, 2022.

1. In anticipation of arrest in Crime No.1015 of 2019, registered with Police Station, Wardha for the offence punishable under Section 420 of the Indian Penal Code, the applicant is praying for grant of pre-arrest bail.

2. It is the case of the prosecution that one Nilima, who is a granddaughter of Laxmibai, the widow of freedom fighter Satyanarayan Vaidya, was drawing Freedom Fighter Pension after her husband's death, amounting to Rs.10,000/- per month. The accused Nilima used to assist Laxmibai to withdraw the pension amount. The accused Nilima even after the death of Laxmibai, without informing the office about the death of Laxmibai, continued to draw pension in the name of Laxmibai and thereby defalcated the amount of Rs.2,70,000/-.

3. During the investigation, accused Nilima disclosed the name of the applicant who is working in Tahsil office, at the relevant time, as a clerk and therefore, the offence was registered against the applicant.

4. Shri M.N.Ali, learned counsel for the applicant states that in the FIR there is no mention of the name of the applicant and even in the statement dated 10/01/2017 submitted by the main accused, she has admitted her guilt and did not disclose the name of the applicant. However, subsequently, during investigation, in a supplementary confessional statement, she first time mentioned the name of the applicant. He, therefore, submits that this is a fit case for confirmation of *ad-interim* bail granted to the applicant vide order dated 04/01/2022.

5. On the other hand, the learned A.P.P. Shri Sirpurkar submits that at the relevant time the applicant was working as Clerk in the Tahsil Office and it is not possible that without the help of the applicant the main accused would withdraw the amount. He submits that in the supplementary statement the co-accused has mentioned the name of the applicant. For this purpose, he has made available the case diary.

6. After considering the allegations made in the FIR and in the first statement of the main accused, dated 10/01/2017, it is clear that there is no mention of the

name of the applicant. The name of the applicant was disclosed by the main accused first time in her confessional supplementary statement. In that view of the matter, I am of the opinion that this is a fit case for confirmation of the ad-interim bail. Hence, I pass the following order:

- i) The application is allowed.
- ii) The ad-interim anticipatory bail granted by this Court on 04/01/2022 is confirmed.
- iii) The applicant shall attend the concerned Police Station as and when his presence is required.

The application stands **disposed of** accordingly.

JUDGE

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