

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

CRIMINAL APPLICATION (ABA) NO.18 OF 2022

(GARVIT AMRISH KUMAR VAISH....VS.. STATE OF MAH. THR. PSO PS RAILWAY, WARDHA.)

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

Court's or Judge's orders

Shri R.S.Suryawanshi, Advocate for Applicant.
Shri M.J.Khan, A.P.P. for Non-applicant No.1/State.

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

1. By the present application the applicant is seeking pre-arrest bail in Crime No.445 of 2019, registered on 07/06/2019 with Police Station, Nagpur Railway for the offences punishable under Sections 328 and 379 of the Indian Penal Code.

2. It is the case of the prosecution that the complainant lodged a complaint with Railway Police Station, Secunderabad wherein he has stated that on 02/05/2019 at about 23:00 hrs. he along with his wife boarded from Nijamuddin Railway Station in a train viz. Dakshin Express for travelling to Secunderabad. He further states that during the travel one unknown person who was sitting on berth No.13 introduced himself as Satyapal and made conversation with the complainant. Later on the train reached to Ballarsha on 03/05/2019 at 22:00 hrs., at that time the said person offered the complainant a biscuit and after eating the same the

complainant fell unconscious on his berth. His wife noticed him unconscious and also found that gold ornaments were missing. The complainant has given further details of the gold ornaments and after reaching Secunderabad Railway Station the complainant approached the Railway Police Force, Secunderabad. Accordingly, the crime was registered and after transferring the said FIR to the Railway Police, Wardha an FIR was registered vide Crime No. 445 of 2019 on 07/06/2019. During the investigation, the accused could not be traced out and accordingly "A" Final was proposed, however, it was not approved by the Railway Court, Nagpur.

3. Thereafter, on 19/01/2021 a crime came to be registered at Secunderabad vide Crime No.81 of 2020. During investigation of the said crime, one of the accused viz. Mukadderali son of Nisarali came to be arrested from District : Badau (UP). During interrogation of the said crime, he disclosed the fact of commission of the said offence, including the present offence, along with one Mohd. Rafique Shoukatali. The said accused persons disclosed the name of the applicant and accordingly the offence was registered against the applicant. It is alleged against the applicant that he had received the stolen property from the main accused.

4. The learned counsel for the applicant submits that except the statement of the co-accused there is no material attributing role of the applicant in the alleged offence. It is submitted that there are no criminal antecedents to the discredit of the applicant. It is submitted that the applicant has been falsely implicated in the alleged offence on a statement of the co-accused.

5. On the other hand, the learned A.P.P. strongly opposed the application and submits that custody of the applicant is necessary for recovery of the stolen property, he accordingly prays for rejection of the application.

6. After going through the case diary, which is made available by the learned A.P.P. and the contents of the FIR it is clear that the FIR was registered against unknown person and subsequently in the name of Satyapal. During investigation in Crime No.81 of 2020, registered at Secunderabad, the accused duo was arrested who disclosed further names in the said offence and similar offences. In the statement of co-accused, he disclosed name of the applicant in the present offence. Except the said statement, nothing has been pointed out from the record about the involvement of the applicant in the alleged offence. As far as recovery is concerned, the alleged offence had occurred in the month of May 2019 and the applicant is denying his involvement in the alleged offence.

7. In that view of the matter, I am of the opinion that this is a fit case to confirm the ad-interim anticipatory bail to the present applicant. Hence, I pass the following order:

- i) The application is allowed.
- ii) The ad-interim anticipatory bail granted by this Court on 07/01/2022 is confirmed.
- iii) The applicant shall attend the Police Station whenever his presence is necessary.
- iv) The Investigating Officer shall issue forty eight hours prior notice to the applicant whenever his presence is required.

The application stands **disposed of** accordingly.

JUDGE

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