

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

CRIMINAL APPLICATION (APPP) NO.85 OF 2022
IN
CRIMINAL APPLICATION (ABA) NO.440 OF 2021

Shivprakash Kaluram Ruhatiya

Versus

The State of Maharashtra, Through P.S.O., P.S. Ramdaspath, Akola, Dist. Akola

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Saurabh Bhende, Adv. h/f Shri S.P. Bhandarkar, Adv. for the
applicant.

Shri M.J. Khan, A.P.P. for non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 15th FEBRUARY, 2022

1. This is an application for permission to withdraw an amount of Rs.50,00,000/- deposited by the applicant before this Court to show his bonafides in the application filed by him for grant of bail in the event of arrest in the Crime No.624 of 2021 registered with the Police Station Ramdaspath, Dist. Akola for the offence punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code.

2. The allegation made in the First Information Report by the informant who is called as Adatya, is that the applicant through his authorized agent namely Sk.

Jawed Kadri has purchased huge quantity of soybean worth Rs.1,87,78,491/-, however, the payment is not made. Thus the whole grievance was non payment of the amount.

3. On the other hand, it is the case of the applicant, that the entire transaction was through AMPC and the applicant has paid an amount for purchase of goods. While considering the request of the applicant for interim protection, the applicant has shown willingness to deposit Rs.50,00,000/- to show his bonafides and accordingly, while granting interim protection he was directed to deposit Rs.50,00,000/- in this Court. The same was deposited and is lying with the registry of this Court.

4. In the meantime, the first informant filed a Writ Petition before this Court, namely, Criminal Writ Petition No.686 of 2021 for transfer of investigation from Sub-Divisional Police Officer, Akola to Economic Offence Wing (EOW) or Crime Investigation Department (CID) or Central Bureau of Investigation (CBI).

5. In view of the pendency of the said writ petition, on 12.10.2021 this Court while considering the application for grant of anticipatory bail filed by the

applicant, has observed that the application cannot be kept pending for indefinite period till the decision in Criminal Writ Petition No.686 of 2021 and accordingly, the said application was disposed of with direction to investigating agency that if they intended to arrest the applicant in the aforesaid crime, 72 hours prior written notice be given to the applicant.

6. As far as request made by the applicant for withdrawal of amount of Rs.50,00,000/-, this Court while disposing of the aforesaid application for anticipatory bail, permitted the applicant to make such request after three months, if there are no directions in this connection in writ petition.

7. Today, the learned counsel for the applicant has pointed out that the aforesaid three months period has expired in the month of January, 2022 and on 12.01.2022, the Division Bench of this Court has issued Rule in the writ petition filed by the first informant and in the said writ petition no directions are issued in respect of the amount deposited by the applicant.

8. In that view of the matter, I am of the opinion that the present application needs to be allowed and accordingly, I pass the following order:-

- a) The Criminal Application is allowed.
- b) The applicant is permitted to withdraw an amount of Rs.50,00,000/- deposited by him in this Court.
- c) Accordingly, the Criminal Application is disposed of.

[ANIL S. KILOR, J.]