

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

CRIMINAL APPLICATION (BA) NO.108 OF 2022

Kailash Sukhdeo Gawai

Vs.

State of Maharashtra Through Anti Corruption Bureau, Akola, District Akola

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for applicant.
Mr. A. R. Chutke, APP for non-applicant/State.

CORAM : AVINASH G. GHAROTE, J.

DATE : 22/02/2022

Heard Mr. Sirpurkar, learned counsel for the applicant and Mr. Chutke, learned APP for non-applicant/State.

2. Mr. Sirpurkar, learned counsel for the applicant submits, that the consequent to failure of trap the applicant is arrested on 21.01.2022 and has been sent to PCR, considering the nature of the offence, which is under Section 7 of the Prevention of Corruption Act, the further incarceration of the applicant is not justified, more so as the trap which was laid on 30.12.2021, had failed. He therefore submits, that the applicant be released on bail subject to such conditions as may be imposed.

3. Mr. Chutke, learned APP for non-applicant/State opposes the application and submits

that the verification statements indicate that there was a demand by the applicant. He however, does not dispute that the applicant, is in MCR since 03.02.2022 and submits that the application be rejected.

4. The applicant is arrayed for the offence punishable under Section 7 of Prevention of Corruption Act in Crime No. 58 of 2022, which came to be registered on the complaint by Prakash Ramchandra Damodhar on 20.01.2022 alleging that the applicant had made demand of Rs.2,000/- for allowing to continue the business of sale of illicit liquor by the complainant. A verification panchnama was prepared recording the conversation between the applicant, complainant and the panchas on 29.12.2021 and accordingly a trap was laid on 30.12.2021, however, the said trap had failed. The only issue now which remains is the demand as per the verification panchnama, which may indicate that there was demand, however, there is no acceptance due to failure of the trap. Considering, that the applicant has been sent to MCR since 03.02.2022, the same would indicate that the entire process is already over, and nothing more is required to be done except for filing of the charge-sheet, considering which, there is no reason to further continue the incarceration of the applicant. Hence, the following order.

ORDER

- (i) The application is allowed.

(ii) The applicant be released on bail in Crime No.58 of 2022 for the offence punishable under Section 7 of the Prevention of Corruption Act, on his executing a PR bond in the sum of Rs.1,00,000/- (Rs.One Lakh only) and furnish a solvent surety of the like amount.

(iii) The applicant shall not tamper with the prosecution evidence or try to influence the prosecution witnesses.

(iv) The applicant shall render all assistance in the further investigation till the charge-sheet is filed.

(v) On the charge-sheet being filed, the applicant shall appear on each and every date before the learned Sessions Court and shall ensure that the trial is not protracted on his count.

JUDGE

Sarkate