

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

CRIMINAL APPLICATION (BA) NO. 199 OF 2022
Dilip Jagan Awsarmol ...Versus...State of Maharashtra

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

Court's or Judge's orders

Ms. A.D.Raut, Advocate for the applicant
Mr. A.R.Chutke, APP for respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 13/04/2022

1] Heard Mr. Raut, learned counsel for the applicant
and Mr. Chutke, learned APP for respondent/State.

2] The applicant has been arraigned for the offence
punishable under Sections 380, 461 r/w 34 of the IPC in
Crime No. 290/2021, registered with the Khamgaon Rural
Police Station, Dist. Buldhana. The applicant has been arrested
on 15.9.2021, the charge-sheet has been filed on 20.10.2021.

3] Mr. Raut, learned counsel for the applicant
submits that the applicant has been falsely implicated, there is
no material to establish the connection of the applicant with
the alleged crime and considering that the charge-sheet has
already been filed on 20.10.2021, the applicant is entitled to
bail.

4] Learned APP opposes the application and submits

that the involvement of the applicant is evident from the fact that he had hired the room at Khamgaon, where the applicant as well as the other accused had resided for some time prior to committing the crime. So also the material necessary for committing the crime, such as gas cylinder, gas cutter, gas pipe, colour spray have been purchased by the applicant, which have been used for breaking open the ATM machines, considering which the connection of the applicant in the aforesaid crime stands established. It is further contended that the applicant has been made a party in Crime No. 388/2021 and Crime No. 453/2021, in which similar offences have been registered against the applicant along with other accused persons. Though the applicant has been released on bail in the aforesaid crime numbers, it is submitted that considering the *modus opprendi* of the applicant and the co-accused, as well as the possibility of their committing similar crime again, the application be rejected.

5] On 30.7.2021, three ATM machines, one at Selu Chikhli in Chikhli Police Station, one at Undri in Amdapur Police Station and one at Palsi Bk at Khamgaon Police Station were broken open and substantial cash was looted therefrom. Though there are no eye-witnesses, the applicant has been arrested on the basis of the statement made by the co-accused, regarding his involvement. The statement of Narendra Dhole (pg. 37) indicates that the applicant had hired the room where

the applicant and the other co-accused had stayed for some time before committing the crime. Only Rs. 30,000/- have been recovered from accused no.1, out of the total amount of Rs. 19 lakh and more which has been taken away from the said ATMs. It is however the fact that the applicant has been released on bail in Crime Nos. 388/2021 and 453/2021 by the learned Trial Court and so also the other accused have also been released on bail. The role of the applicant as described above in acquiring the materials necessary for the purpose of breaking open the ATMs, is quite different from the role of the other accused persons, who have indulged into actually breaking open the ATMS, who have been enlarged on bail. However, the apprehension expressed by the learned APP of a similar incident likely to be committed by the applicant, considering that three ATMs were broken into is also not unjustified, which however, can be taken care of by putting stringent conditions. Hence the following order.

O R D E R

- I] The application is allowed.
- II] The applicant Dilip Jagan Awsarmol be released on bail for the offence punishable under Sections 380, 461 r/w 34 of the IPC in Crime No. 290/2021, registered with the Khamgaon Rural Police Station, Dist. Buldhana on executing his PR bond in the sum of Rs.1,00,000/- with two solvent sureties of like amount.

III] The applicant shall not directly or indirectly tamper with the prosecution evidence and shall not unduly influence the prosecution witnesses in any manner.

IV] The applicant shall not be involved in any single offence of any nature whatsoever and in case so found, the bail shall stand automatically cancelled.

V] The applicant shall also at all times keep the I.O. and the learned Sessions Court informed about the address of his residence as well as the mobile number on which he would be available at all times and shall not change the residence or the mobile number without prior intimation to the I.O. as well as the learned Sessions Court.

VI] Considering that the applicant is claimed to be involved in three crimes as stated above, the applicant shall report to Police Station Khamgaon Rural, on the first Saturday of every month, between 12.00 noon to 5.00 p.m. and shall maintain a separate diary for recording his attendance, till the conclusion of trial.

VII] The applicant shall attend each and every date before the learned Sessions Court and shall ensure that the trial is not protracted on his count.

VIII] Any violation of any of the conditions shall result in cancellation of bail.

Rvjalit

JUDGE

Digitally sign by RAJESH
VASANTRAO JALIT
Location:
Signing Date: 13.04.2022 16:43