

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

CRIMINAL APPLICATION (APPP) NO.400 OF 2022

(Ramkrishna Premchand Dubey and Anr. .Vs. State of Maharashtra and Anr.)

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

Court's or Judge's order

Ms. M. Yaduka h/f Shri. S. P. Bhandarkar, Advocate for the Applicants
Ms. T. H. Udeshi, APP for Non-Applicant/State.

CORAM : AVINASH G. GHAROTE, J.

DATE : 5th APRIL, 2022.

1. Heard Ms. M. Yaduka, learned Counsel for the Applicants and Ms. T. H. Udeshi, learned APP for Non-Applicant/State.

2. The application seeks the modification of the condition of bail granted by the order dated 06.10.2021, specifically condition No.1 to the extent, it directs furnishing two solvent sureties in the sum of Rs.1 lakh each. It is contended that inspite of efforts, the Applicants have not been able to secure sureties of the nature as directed, and therefore, have not been released on bail on that count. It is submitted, that the Applicants are bound by the other conditions and shall not leave the territorial limits of Nagpur Municipal Corporation, unless so permitted which is a direction contained in Clause (iv) of the bail order dated 06.10.2021. Reliance is placed upon **Mithun Chatterjee .vs. State of Odisha, (Special Leave to Appeal (Crl.) No.4705 of 2021, Vrushal Avinash Nagarkar .Vs. State of Maharashtra, 2018 SCC OnLine Bom 20255, Bhagwat Joshi @ Shankar Lal Joshi, Kaliram Joshi .Vs. State of Chhattisgarh (Cri. M. P. No.1395 of 2020), Moti**

Ram .Vs. State of M.P (1978) 4 SCC 47, Kunal Kumar Tiwari alias Kunal Kumar .Vs. State of Bihar and Anr., (2018) 16 SCC 74, B. N. Srivastava .Vs. Central Bureau of Investigation, (2018) 14 SCC 209, Ganesh Ashok Shinde .Vs. State of Maharashtra, 2019 SCC OnLine Bom 8683, Hazari Lal Gupta .Vs. Rameshwar Prasad and Anr., (1972) 1 SCC 452, and Mehrunisa Shadab Sayyed .Vs. State of Maharashtra, 2019 SCC OnLine Bom 8681, in support of her contention.

3. Ms. T. H. Udeshi, learned APP opposes the application and submits that the condition imposing the extent of sureties in the bail order dated 06.10.2021, was upon the submission of the learned Counsel for the Applicants as recorded in Para 9 thereof, and therefore, the applicants cannot now be permitted to go back upon the same.

4. In so far as the reliance is placed upon the aforesaid judgments, it is to be noted that while directing release of the Applicants on bail by the order dated 06.10.2021, no condition for deposit of any amount, whatsoever has been imposed by the Court. That apart, in Para 9, the submission of the learned Counsel for the Applicants to the effect that the Applicants if released on bail were ready and willing to furnish the sureties of two respectable persons, who are permanent residence of Nagpur was also recorded. It was also noticed in Para 4, that there were as many as 26 crimes registered at various Police Stations in

Maharashtra against the Applicants, which have been directed to be conducted by the M.P.I.D. Court Nagpur. It is therefore apparent, that no onerous condition whatsoever has been put, as there is no direction for deposit of any amount. It is also to be noted that the Applicants are accused of having amassed sum of Rs.7.08 crores from the various investors, who are claimed to have been taken for a ride, considering which the conditions have been imposed, and therefore, what has been said in the aforesaid judgments is clearly not applicable. It is further material to note, that **Moti Ram** (supra), was the case when, the M.P.I.D. Act, was not on the statutory book and the factual position therein, is totally different from what it is now considering which it has no applicability.

5. However, considering that though the bail order is dated 06.10.2021 and the Applicants have not been able to furnish sureties till today, in my considered opinion since bail has already been ordered, slight modification of the condition, in order dated 06.10.2021, is called for and the condition No.1, which directs the furnishing of two solvent sureties in the sum of Rs.1 lakh each would stand modified by permitting the Applicants to furnish two solvent sureties each in the sum of Rs.75,000/-. The application is therefore **allowed** to the above extent. No costs.

JUDGE

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