

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

CRIMINAL APPLICATION (BA) NO.308/2022

Nilesh s/o Ramdas Muley and another

...Versus...

State of Maharashtra, Through P.S.O. Sakharkherda Police Station Tahsil
Sindkhed Raja, Dist. Buldhana

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

Court's or Judge's orders

Mr. N. L. Jaiswal, Advocate for applicants.
Mr. S.S. Doifode, APP for non-applicant/State.

CORAM : AVINASH G. GHAROTE, J.

DATE : 22/04/2022

1. Heard Mr. Jaiswal, learned counsel for the applicants and Mr. Doifode, learned Additional Public Prosecutor for the non-applicant/State.

2. The applicants have been arraigned for the offence punishable under Sections 380 and 461 of Indian Penal Code in Crime No.51/2022.

3. Mr. Jaiswal, learned counsel for the applicants submits that the applicants are the owners of two Bolero vehicles, which are alleged to have been used in the offence of theft by the original accused Gajanan Rameshwar Wagh. He

further submits that though the applicants are the owners of the aforesaid two vehicles, they are in the business of giving the vehicles on hire, and had given the vehicles to the accused no.1- Gajanan on the said day. It is contended that once the vehicle is given on hire, the person who takes the vehicle on hire, is not concerned with the owner of the vehicle. He further submits that there is no seizure of any food-grains and the applicants are entitled for bail.

4. Mr. Doifode, learned Additional Public Prosecutor for the non-applicant/State opposes the application and submits that since the applicants are the owners of the vehicles, they are responsible for acts, for which the vehicles are used and in this case as the vehicles are used for committing the theft of food-grains from the shed of the complainant, the applicants are equally responsible for the said theft and the application for bail be rejected.

5. On 23.2.2022 at about 5.30 a.m. the complainant, who is an agriculturist, came to know that the agricultural produce kept in his shed was stolen by breaking open the lock. The theft has been attributed to the accused No.1- Gajanan Rameshwar Wagh and the recovery of the agricultural produce has been made from him and one Lakhan. The applicants, are admittedly the owners of the Bolero Pick-up vehicles, which have been used in the aforesaid theft.

6. Considering that there is no recovery from the applicants nor there are any specific allegations against them, of having being involved in the said offence, except the fact that they are the owners of the said vehicles, a case for bail is made out. Hence the following order.

ORDER

(i) The criminal application is allowed. The applicants be released on bail upon furnishing PR. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) each with two solvent sureties in the like amount

(ii) The applicants shall not tamper with the prosecution evidence.

(iii) It is made clear that violation of any of the above conditions shall result in cancellation of bail.

(iv) Since it is contended that the marriage of the sister of the applicant no.1 is to be solemnized on 25.4.2022, Hamdast out of turn is granted.

(v) Learned Additional Public Prosecutor to intimate the prison authority regarding the said order.

(AVINASH G. GHAROTE, J.)