

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

Criminal Application (BA) No.319/2022

Laik Hafiz Ansari V State of Maharashtra thr PSO PS Khaperkheda, Nagpur

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

Court's or Judge's Orders

Shri R.M. Daga, Advocate for applicant.
 Shri S.D. Sirpurkar, APP for State.

CORAM : ANIL S. KILOR, J.
DATE : 11-07-2022

The applicant has approached to this Court by filing the present application under Section 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.0522/2020 dated 25-08-2020 registered with Police Station Khaperkheda, District Nagpur Gramin for the offences punishable under Sections 341, 307, 324, 323, 427, 143, 147, 148, 149 of the Indian Penal Code.

2. The learned Counsel for the applicant submits that except the applicant named in the FIR, all other accused persons who are allegedly involved in the present crime, have been released on bail. Whereas, the application of the applicant for grant of bail was rejected by the trial Court only on the ground that there are criminal antecedents. It is submitted that as far as the criminal antecedents are concerned, it is alleged that similar offence was

committed by the applicant in the year 2010. It is submitted that in the said offence the applicant was acquitted.

3. It is further pointed out that the other offences are not of similar in nature and therefore those are not relevant for the purpose of present matter. Accordingly, he prays for parity.

He further submits that the applicant is in jail from about 8 months. Considering the fact that there is no likelihood that in near future the trial will be commenced or it will be concluded. It is submitted that the custody of the applicant is not necessary as the chargesheet has already been filed.

4. On the other hand, learned APP strongly opposes the application and submits that there are criminal antecedents against the applicant and considering the statements of witnesses and seriousness of the offence he may not be granted bail.

5. I have perused the chargesheet, the First Information Report and the reply of the APP.

6. In the present crime, the role attributed to the applicant is similar with the role attributed to the co-accused who are named in the FIR and who have already been released on bail.

7. The learned trial Court while considering the case of the applicant on parity, rejected his application on the ground that

there are criminal antecedents. If the criminal antecedents of the applicant are considered, the offence which was registered in the year 2010 under Section 302 of the IPC, in the said offence he was acquitted.

8. As far as the other offences are concerned, they are under Section 379 of the IPC i.e. theft and are not similar in nature.

9. The charge sheet has already been filed after completion of the investigation. Thus, except for the reason that there are criminal antecedents which are of no similar nature, there is no valid ground available to deny the bail to the applicant on parity. In the circumstances, I pass the following order:-

ORDER

- i) Application is allowed.
- ii) The applicant in Crime No.0522/2020 dated 25-08-2020 registered with Police Station Khaperkheda, District Nagpur Gramin for the offences punishable under Sections 341, 307, 324, 323, 427, 143, 147, 148, 149 of the Indian Penal Code, be released on bail on furnishing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.

iii) The applicant shall provide his address to the nearby Police Station and shall attend the concerned Police Station on 1st and 16th day of every month between 10.00 am to 12.00 noon, till the culmination of trial.

iv) The applicant shall not enter into the territorial jurisdiction of Nagpur District, except for the trial, till the culmination of trial.

v) Liberty is granted to the State to file an application for cancellation of bail, in case, commission of any serious offence by the applicant.

(Anil S. Kilor, J.)