

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

CRIMINAL APPLICATION (APPA) NO.261/2022

IN

CRIMINAL APPEAL NO.22/2022

Vikas @ Vivek s/o Laxmanrao Dhokane (Patil)

Vs.

State of Maharashtra, through P.S.O., P.S. Jaripatka, Nagpur

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

Court's or Judge's orders

Shri R.B. Gaikwad, Advocate for appellant
Shri I.J. Damle, APP for respondent/State

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 23/09/2022

The present application is filed by the applicant/accused no.1 to release/delivery of the articles, cash and to de-freeze of accounts of applicant.

2. Being aggrieved by the judgment passed by the learned District and Sessions Judge-6, Nagpur in Sessions Trial No.320/2021, State Vs. Vikas @ Vivek and six others, dated 22/12/2021 thereby convicting the present appellant/accused no.1 only, for the offence punishable under Section 420 of the Indian Penal Code and thereby sentencing him to suffer rigorous imprisonment for five years and to a pay fine of Rs.5,000/-, in default to suffer simple imprisonment for six months. He was acquitted for having committed offence under Section 188 read with Sections 34 and 120-B of the Indian Penal Code and for the offence punishable under Sections 3 and 7 of the Essential Commodities Act, 1955 and Section

18(c) punishable under Section 27 of the Drugs and Cosmetics Act. Rest of the accused Nos.2 to 7 have been acquitted from all the charges. The appeal is preferred against the judgment in which substantive sentence was suspended and accused/appellant was released on bail. While passing the judgment, the learned Trial Court was pleased to return the properties which came to be seized from the present applicant after the appeal period is over.

3. It is submitted that the present prosecution is solely based on two Remdesivir injections, which came to be seized from the present applicant at the time of alleged raid and, therefore, order of the return of the properties and the judgment of the learned Trial Court are not concerned with the alleged offence at all.

4. It is also submitted that the police machinery had given the letter to the Axis Bank and H.D.F.C. Bank. By that, the accounts were frozen. Applicant's Aadhar Card, Pan Card and Election Card came to be seized along with the cash amount. The said documents are important to do any transaction as well as due to freezing of account of Axis Bank and H.D.F.C. Bank, he cannot do any business. Hence applicant prayed for release all the properties.

5. Learned Additional Public Prosecutor fairly conceded that appeal period is over. He also fairly conceded that there was no order of freezing the bank accounts by any Court, but it is during the

investigation the banks were informed.

6. I have heard applicant and learned APP. Perused judgment and record. There are direction by the learned Sessions Judge-6, while disposing of Sessions Trial No.320/2021 to return of the property after appeal period is over. Moreover, the articles which are claimed to be returned can be returned on supratnama. So far as operation of bank accounts are concerned, there is nothing on record placed by learned APP that those were frozen as per direction of the Court. As such, there is no impediment in allowing the application. Accordingly, I proceed to pass the following order:

ORDER

- i) The application is allowed.
- ii) The respondent is directed to return the articles at Sr. Nos. (i) to (vii) on supratnama of the applicant. So far as Bank accounts of Axis Bank A/C No.918010015262166, Branch at Medical Square at Nagpur and H.D.F.C. Bank A/C No.50100043450901, Branch at Lakadikapul Hyderabad are concerned, the applicant is free to operate the said accounts.

7. The application stands disposed of.

JUDGE