

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

CRIMINAL APPLICATION (ABA) NO.272 OF 2022

Mohammad Ashfaq Mohammad Hanif Ansari

Versus

State of Maharashtra, through P.S.O., P.S. Wani, Tal. & Dist. Yavatmal

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

Court's or Judge's Order

Shri Vivek Awchat, Advocate for the applicant.

Shri S.D. Sirpurkar, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 05/05/2022

1. The applicant is seeking pre-arrest bail in Crime No.82 of 2022, dated 10.02.2022, registered with PoliceStation Wani, District Yavatmal, for the offences punishable under Sections 307, 353 and 395 of the Indian Penal Code, against the thirteen accused persons. The applicant is the accused No.8. The allegations are about coal theft, dacoity and tried to cause grievous injury.

2. Shri Awchat, learned counsel for the applicant submits that the offence against the applicant was registered on a statement of co-accused. He submits that the truck involved in the alleged offence are not owned by the applicant and there are no criminal antecedents against the applicant. He has drawn attention to the reply of the State wherein it is stated that CDR collected by the Investigating

Officer shows connection of the applicant with the co-accused. By pointing out the same, he submits that the applicant is in the sand business and therefore, he regularly makes phone calls to Nagesh Chittalwar and therefore, it is not sufficient on the basis of CDR to say that the applicant is involved in the alleged offence.

3. On the other hand, Shri Sirpurkar, learned APP opposes the present application and submits that CDR *prima facie* shows the involvement of the present applicant in the alleged offence, and co-accused has mentioned his name.

4. I have perused the Case Diary and also the contents of the First Information Report (FIR).

5. The name of the applicant was arraigned on the basis of statement of co-accused. There are no criminal antecedents against the applicant. The CDR report shows that he made phone calls to one Nagesh Chittalwar. However, i.e. not sufficient to *prima facie* show his involvement in the alleged offence. Thus, at present except the statement of co-accused, as there is no *prima facie* incriminating material available on record, I am of the opinion that the applicant is entitled for grant of pre-arrest bail. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that in the event of arrest of the applicant in Crime No.82 of 2022, dated 2022, registered with Police Station Wani, District Yavatmal, for the offences punishable under Sections 307, 353 and 395 of the Indian Penal Code, the applicant shall be released on bail on furnishing P.R. Bond of Rs.15,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned Police Station on 11, 12, 13 and 14th May, 2022 between 09.00 a.m. to 12.00 noon and thereafter, as and when his presence is required.
- d) The applicant shall not tamper with the prosecution witnesses.
- e) The applicant shall not leave the jurisdiction of the concerned Police station without permission of the Court.

The criminal application is **disposed of**, accordingly.