

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

Criminal Application (BA) No.600/2022

Sarjerao Bhosle and others V State of Maharashtra thr PSO PS Khamgaon Rural,
 Buldhana

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

Court's or Judge's Orders

Shri A.A. Pannase, Advocate for applicants.
 Mrs. Mrunal Barabde, APP for State.

CORAM : ANIL S. KILOR, J.
DATE : 18-07-2022

The applicants have 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.0092/2021 registered with Police Station Khamgaon Gramin, District Buldhana for the offence punishable under Section 379 of the Indian Penal Code.

2. The learned Advocate for the applicants submits that the offence was registered against one unknown person. Whereas, subsequently all the applicants were arraigned as accused, only on the basis that two offences of similar nature were against them.

3. It is point out that the applicants have been falsely implicated in the alleged offence and since last two months during the period when they are in the custody of the Police, nothing

has been recovered from them particularly; any stolen property. Accordingly, he prays for grant of bail.

4. On the other hand, learned APP strongly opposed the application and submits that there are criminal antecedents of similar nature and some amount was recovered from the applicants. It is submitted that the applicants are not cooperating the Investigating Officer. Accordingly, she prays for rejection of the present application.

5. I have perused the case diary and the First Information Report.

6. At this stage, though the applicants are in jail for about two months, nothing is recovered from them. Moreover, nothing has been pointed out to show the involvement of the applicants in the alleged offence, except the criminal antecedents.

7. The criminal antecedents of similar nature cannot be said to be sufficient to arraign any person as accused in any similar offence, unless incriminating material is found.

8. In this case, as observed that, there is no recovery or incriminating material collected by the Investigating Officer during last two months when the applicants are in custody of the non-applicant. Thus, I am of the opinion that only on the basis of criminal antecedents keeping the applicants in jail for uncertain period will amount to per-trial punishment. Accordingly, I pass

the following order:-

ORDER

- i) Application is allowed.
- ii) The applicants in Crime No.0092/2021 registered with Police Station Khamgaon Gramin, District Buldhana for the offence punishable under Section 379 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 applicants shall attend the concerned Police Station on 20-07-2022, 21-07-2022 and 23-07-2022 between 10.00 am to 12.00 noon.
- iv) Liberty is granted to the State that in case the applicant repeats the similar offence, the State may file application for cancellation of the bail.

(Anil S. Kilor, J.)