

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

CRIMINAL APPLICATION (ABA) NO. 403 OF 2022

Dharmendra Sharma **Versus** State of Maharashtra, thr. PSO., P.S. Dhantoli, Nagpur.

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

Court's or Judge's Order

Shri A.K. Madane, Advocate for the applicant.

Shri V.A. Thakre, A.P.P. for the non-applicant /State.

CORAM : ANIL S. KILOR, J.

DATED : 07/07/2022.

1. The applicant is seeking pre-arrest bail in Crime No.234 of 2004, registered with Police Station, Dhantoli Police Station, for the offences punishable under Sections 143, 147, 148, 149, 323, 304, 201, 294, 504, 506, 452, 113, 1144, 34 of the Indian Penal Code, 1860 and Sections 4,25 of the Arms Act.

2. Shri A.K. Madane, learned counsel for the applicant submits that in proceeding filed by the applicant before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India has granted stay to the trial, as such, the custody of the applicant is not necessary.

3. He further submits that the charge-sheet has been filed in this case and all the other accused persons have already been released on bail. Accordingly, he prays for grant of pre-arrest bail.

4. On the other hand, learned Shri V.A. Thakre, learned APP opposes the present application and submits

that this Court in Criminal Appeal No. 498/2011 filed by the State against the acquittal of the respondents for the offences 302, 201, 294 read with Section 34 of the Indian Penal Code, it was directed to file charge sheet against the real culprit and also the erring police personnel who had falsely implicated the respondent in the said case and also falsely deposed against them.

5. It is submitted that after the said directions, the State went in Special Leave Petition before the Hon'ble Supreme Court of India, which came to be dismissed and accordingly, the investigation was made and the offence was registered against the present applicant and the other accused persons.

6. He submits that custodial interrogation of the applicant is necessary, considering the observations made by this Court in the judgment of dated 24/07/2018. Accordingly, he prays for rejection of the present application.

7. The Division Bench of this Court in Criminal Appeal No. 498/2011 filed by the State, upheld the acquittal of the respondents in the said case and directed the State Government to file charge-sheet against the real culprit and also against the PSI Barraiyya and other erring police personnel who had falsely implicated respondents in the said case and also falsely deposed against them. It

further appears that the Special Leave Petition filed against the said judgment was dismissed.

8. Thus, from the above stated facts, it can be seen that in view of the directions of Division Bench of this Court, the investigation was initiated and the offence was registered against the present applicant and other co-accused persons.

9. The other co-accused persons who have been released on bail were released on regular bail. In the present matter, the applicant is seeking pre-arrest bail.

10. The offence is very serious and considering the evidence collected by the Investigating Officer, I am of the opinion that custodial interrogation is necessary in this case.

11. Moreover, considering the fact that the applicant is absconding, there is every likelihood that if the applicant is granted pre-arrest bail, he will not be available for trial. In that view of the matter, I pass the following order.

The criminal application is **rejected..**

[ANIL S. KILOR, J.]