

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

Criminal Application (ABA) No.483/2022

Chandrakant Rai V State of Maharashtra thr PSO PS Gondia city, Gondia

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

Court's or Judge's Orders

Shri K.H. Dodani, 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 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No.149/2015 dated 09-08-2015 registered with Police Station Gondia City, District Gondia for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code.

2. The learned Counsel for the applicant submits that no role is attributed to the applicant in the alleged offence. There is nothing to show that the applicant has received any benefit out of the alleged offence. The amount of salary and the commission cannot be treated as the benefits received by the applicant out of the alleged crime.

3. He further submits that though the offence was

registered in the year 2015, he got knowledge about the same in the month of May, 2022 and accordingly the present application has been moved. It is submitted that the applicant was neither the Director nor the Managing Director of the finance company, but he was working as a salaried employee and he used to receive the incentives. In the circumstances, he submits that as the chargesheet has already been filed and the investigation is over, the custody of the applicant is no more required. Accordingly, he prays for grant of pre-arrest bail.

4. On the other hand, learned APP strongly opposes the application and submits that the learned trial Court has rejected the application on observing that he had received the benefits by way of exorbitant increase in the salary and also by way incentives. He further points out that the applicant was absconding. Accordingly, he prays for rejection of the present application.

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

6. The offence was registered on 09-08-2015. Considering the statements of witnesses, prima facie, no specific role is attributed to the applicant which would attract Section 420 of the IPC against the applicant. Further, prima facie, it appears from the chargesheet that the applicant was working as an employee and he used to receive salary and the incentives. The

amount received by the applicant as salary or incentives cannot be termed as the amount received out of the alleged crime unless it is proved the said amount was not towards the salary or incentives.

7. As far as the ground taken by the learned APP that the applicant was absconding, I am of the opinion that imposition of some stringent conditions would address the apprehension of the APP.

8. As the chargesheet has already been filed and considering the role of the applicant, I am of the opinion that the applicant is entitled for grant of pre-arrest bail. Accordingly, I pass the following order:-

ORDER

- i) Application is allowed.
- ii) In the event of arrest of the applicant in Crime No.149/2015 dated 09-08-2015 registered with Police Station Gondia City, District Gondia for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code, the applicant 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 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) 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.)