

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

CRIMINAL APPLICATION (APL) NO.1086 OF 2022

Rakesh Santosh Khairkar .Vs. State of Maharashtra, through P.S.O., P.S. Dattapur,
Dhamangaon Railway, Amravati

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

Court's or Judge's Order

Shri Mir Nagman Ali, Advocate for the applicant.

Shri A.M. Kadukar, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 13/10/2022

1. The present proceeding is filed raising challenge to the order dated 12/02/2020 passed by the Additional Sessions Judge-2, Amravati in Criminal Revision Application No.12 of 2020 upholding order of the trial Court dated 09/12/2019, rejecting the application for grant of permanent exemption to attend the trial.

2. The learned counsel for the applicant submits that, in a similar matter permanent exemption has been granted to the applicant, whereas, in the present crime, it is refused. He, therefore, submits that the impugned orders are not sustainable in the eyes of law.

3. On the other hand, the learned APP argues that it is the discretion of the trial Court, whether to grant exemption or not, and it depends upon the satisfaction of the trial Court. Accordingly, he submits that no illegality has

been committed by the trial Court in exercise of the discretion and as such this Court may not interfere with the impugned orders.

4. In the backdrop of the submissions made by the learned counsels for the respective parties, I have perused the relevant provisions and the impugned orders.

5. The language of Sections 205 and 317 of the Cr.P.C. is clear and from that it is evident that satisfaction of the Magistrate or the Judge is necessary to arrive at any conclusion whether the presence of accused is necessary or not.

6. In the present case by the reasoned order the application of the applicant has been rejected.

7. The learned trial Court has categorically observed that though there was condition while granting bail to the applicant that he shall attend each and every date of the trial, after 2014 he did not attend the proceedings and on all the dates exemption was sought on one granted or the other and thereby he has misused the liberty.

8. Furthermore, the order of the trial Court is upheld by the Revisional Court. Accordingly, in absence of

any merit in the challenge, I am of the opinion that present application needs to be rejected.

9. As far as the permanent exemption granted to the applicant in another case is concerned, as I have observed that it depends on the satisfaction of the Judge or the Magistrate to decide whether the presence of the accused is necessary or not, the said order will not help the applicant. Accordingly, I pass the following order:

The criminal application is **rejected**.

JUDGE