

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

CRIMINAL APPLICATION (ABA) NO.600 OF 2022

Mukesh Ganeshprasad Malviya .Vs. State of Maharashtra, through P.S.O., P.S.
Rajapeth, Dist. Amravati

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

Court's or Judge's Order

Shri A.A. Naik, Adv. a/w Shri A.S. Manohar, Adv. for the applicant.
Shri S.D. Sirpurkar, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : 06/09/2022

1. The applicant is seeking pre-arrest bail in Crime No.534 of 2022, dated 28.06.2022, registered with Police Station Rajapeth, District: Amravati, for the offences punishable under Sections 4, 25(1-B)(g), 26 and 29 of the Arms Act.

2. Shri Naik, learned counsel for the applicant submits that the applicant is the proprietor of Laxmi Ganesh Communication, Amravati who had placed bookings for purchase of articles, which were being cleared from the warehouse of Amazon.com. It is submitted that the applicant was unaware of exact description of the products which are being sold. However, when he received the goods, he saw that 29 pieces of decorative swords had been received along with the other goods. He therefore, immediately, informed to the Police and surrendered the swords to the Police.

3. He submits that the applicant never ordered said item namely decorative swords. In the circumstances, he submits that the custodial interrogation of the applicant is not necessary and he, therefore, prays for grant of pre-arrest bail.

4. On the other hand, Shri Sirpurkar, learned APP strongly opposes the present application and submits that, Amravati is a sensitive area and there is a history of communal riots. In the said backdrop, recovery of 29 swords from the applicant is a serious matter and therefore, he submits that this Court may not consider the prayer of applicant for grant of bail.

5. I have perused the Case Diary and the application.

6. The documents filed along with the application show that these swords which were recovered from the applicant, are decorative swords, which are available on Amazon for sale. From the consignment, *prima facie* it further appears that there is no mention of item swords in it and therefore, the applicant was not knowing that what article had been sent to the applicant through Amazon.

7. Moreover, the fact that the applicant himself informed the Police about the swords and surrendered it to the Police, cannot be ignored. The said conduct of the applicant *prima facie* shows that the applicant never ordered

for such items and there was no intention of the applicant to use the swords in any crime.

8. In the circumstances, I am of the opinion that as the swords have been already recovered by the Police along with the relevant documents, there is nothing to be recovered from the applicant. Furthermore, while granting *ad-interim* anticipatory bail, vide order dated 12.08.2022, the applicant was directed to attend the concerned Police Station as and when his presence is required. However, the applicant was never called by the Investigating Officer for investigation. This shows that the custodial interrogation of the applicant is not necessary. In the circumstances, I pass the following order:

- a) The criminal application is **allowed**.
- b) Order passed by this Court on 12.08.2022, granting *ad-interim* anticipatory bail, is confirmed with modification that the applicant shall attend the concerned Police Station as and when his presence is required.

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

[ANIL S. KILOR, J.]