

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

CRIMINAL APPLICATION (ABA) NO.635 OF 2022

Mohd. Enajul Khan @ Kallu S/o Tajmul Khan .Vs. State of Maharashtra, through
P.S.O., P.S. Pauni, Tah. Pauni, Dist. Bhandara

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. Dhawas, Advocate for the applicant.

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

CORAM : ANIL S. KILOR, J.
DATED : 28/09/2022

Heard.

2. The applicant is seeking pre-arrest bail in Crime No.114 of 2022, dated 27.04.2022, registered with Police Station Pauni, District: Bhandara, for the offences punishable under Sections 353, 333, 332, 379, 325, 341, 143, 147, 294, 427, 506 and 109 of the Indian Penal Code and Sections 48(7)(8) of Maharashtra Land Revenue Act.

3. Shri Dhawas, learned counsel for the applicant submits that the applicant was not named in the First Information Report (FIR), and he has been falsely implicated in the alleged offence.

4. The learned counsel for the applicant further submits that on the basis of CDR wherein, it was found that the applicant repeatedly called the co-accused, he has been arraigned as accused. He further submits that only because

antecedents are there, this Court may not deny prayer of the applicant for grant of bail.

5. Shri Dhawas, learned counsel for the applicant lastly submits that as the charge-sheet has been filed, custodial interrogation of the applicant is not necessary.

6. On the other hand, Shri Ghodeswar, learned APP strongly opposes the present application and submits that the offence is very serious, it relates to sand theft which is against the society as it directly effects the environment. Further, he points out that the applicant has committed similar offences in past and therefore, there is every likelihood that he may commits similar offence again, if he is released on bail.

7. The learned APP further points out that from the CDR, it is clear that, he was continuously in contact with the co-accused and considering the number of calls with the co-accused, it cannot be said that, the calls were made as regular calls.

8. I have perused the charge-sheet filed against the co-accused and the application.

9. At the outset, it is evident that the offence is serious and there are criminal antecedents of similar nature to the discredit of the applicant. The CDR filed on record along with the reply shows that, the applicant was

continuously in contact with the co-accused, at the relevant time on the date of incident.

10. In this crime, the investigation is going on and as the applicant is absconding and not cooperating the Investigation Officer in investigation by not attending the Police Station, though he was called, the Investigation Officer is facing difficulty in investigation and therefore, he wants custodial interrogation of the applicant.

11. Thus, considering the seriousness of offence and the fact that, for proper investigation, his custodial interrogation is necessary, I am of the opinion that this is not a fit case for grant of anticipatory bail. Accordingly, I pass the following order:

The criminal application is **rejected**.

JUDGE