

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

CRIMINAL APPLICATION (ABA) NO.724 OF 2022

Bhimrao Shamrao Garkal Vs. Police Station Officer, Police Station Hiwarkhed,
Tah. Telhara, Dist. Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri R.B. Dhore, Advocate for applicant.
Shri S.M. Ghodeshwar, APP for non-applicant.

CORAM : G.A. SANAP, J.
DATE : NOVEMBER, 10 2022.

The applicant has made this application for anticipatory bail inasmuch as he apprehends his arrest in Crime No.45/2021 registered at Police Station Hiwarkhed, Tahsil Telhara District Akola for the offences punishable under Sections 409, 420 read with Section 34 of the Indian Penal Code.

2. It is the case of the applicant that he has not committed any offence. The report has been lodged due to political enmity. The Sarpanch, who is co-accused, has been granted anticipatory bail by this Court (Coram : Anil S. Kilor, J.) on 9th June, 2021. The applicant is ready to cooperate with the Investigating Officer for the purpose of investigation and his police custody is not necessary. He is ready to abide by all the conditions that may be imposed by this Court. It is further stated that the role attributed to co-accused Aruna w/o

Suresh Onkare and to this applicant is identical and therefore, on the ground of parity as well, he is entitled for protection from arrest.

3. Investigation Officer has filed the reply and opposed the application. It is contended that the investigation is in progress. The police custody of the applicant would be required to take the investigation to its logical conclusion. The crime is serious. The loss has been caused to the public exchequer.

4. I have heard the learned Advocate for the applicant and learned APP for the State. Perused the record and proceedings.

5. The applicant has placed heavy reliance on the order dated 09.06.2021 passed in favour of the co-accused Sau. Aruna w/o Suresh Onkare and invoked the ground of parity. In order to satisfy myself about the correctness of the factual position vis-a-vis the role attributed to this applicant and the co-accused, I have minutely perused the order. In my view, the applicant is similarly circumstanced with the co-accused, who has been granted anticipatory bail. It has come on record that all the relevant documents, which are the basis of the prosecution, have been recovered by the Investigating Officer. The record reveals that separate inquiry with regard to the alleged misappropriation of the amount has been conducted by the authority and the report of the inquiry has been submitted. The Revenue Commissioner has ordered

recovery of the amount involved in the matter from this applicant as well as co-accused, who has been granted anticipatory bail. In the facts and circumstances of the case, the ground of parity is available to the applicant.

6. All the documents have already been recovered. The custodial interrogation of the applicant, therefore, may not be necessary. The apprehension raised by the prosecution of tampering with the prosecution evidence by the applicant can be taken care of by imposing appropriate conditions. In my view, in the facts situation, on the basis of apprehension the application cannot be rejected.

7. In the facts and circumstances, the application is allowed. Ad-interim anticipatory bail granted vide order dated 13.10.2022 is confirmed on same terms and conditions.

8. The Criminal application stands disposed of.

JUDGE

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