

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

CRIMINAL APPLICATION (BA) NO. 1345/2021
Lokesh Janardhan Waghmare...Versus...State of Maharashtra

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

Court's or Judge's orders

Mr. D.V.Chauhan, Advocate for the applicant
Mr. I. Damle, APP for respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 04/02/2022

1] Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2] Heard Mr. Chauhan, learned counsel for the applicant and Mr. Damle, learned APP for State.

3] The applicant is arrayed for the offence under Sections 420, 409, 406, 419, 120B of the IPC r/w Section 3 of the MPID Act and Section 66(c) of the I.T. Act, in Crime No. 117 of 21, registered on 26.3.2021 by the Police Station Dhantoli, Nagpur, and has been arrested on 26.3.2021. The charge-sheet is filed on 18.6.2021.

4] Mr. Chauhan, learned counsel for the applicant submits that the applicant was merely an employee of a

company by name eGames Asia Online and was employed to solicit customers on his behalf for the scheme floated by the said company. The only allegation against the applicant is that he has received an amount of Rs. 9,12,000/- in his own account, which was in fact payable to the company. This amount has been deposited before the learned Sessions Court on 11.1.2022 under CCD No. 435, the receipt of which is placed on record (page 440).

5] Mr. Chauhan, learned counsel for the applicant contends that the applicant has only acted as a marketing and sales executive of the said company in terms of his employment and nothing else, and therefore since the amount has been secured, the charge-sheet has been filed and the applicant is not having any criminal antecedents and so also for the reason that the applicant is suffering from BL Hip Osteoarthritis Secondary to Sickle Cell Diseases “SS” and is continuously required to take treatment, the applicant be released on bail on such terms as may be deemed fit.

6] Mr. Damle, learned APP opposes the application by contending that the applicant though employed with the company had in fact misrepresented himself as the director of the company and has received a sum of Rs. 9,12,000/- in his account, which would indicate his complicity in the matter along with the owners/directors of the company. It is further

contended that the other co-accused are absconding and the applicant may assist them further in their nefarious designs. He therefore submits that the application needs to be rejected.

7] It is not in dispute that the applicant was not director or share-holder of the company by name eGames Asia Online. The appointment letter dated 10.06.2020 (page 69) indicates that he was appointed as a marketing and sales executive of the company for procuring customers for the company in respect of various schemes floated by the company and during the course of his employment has solicited customers on behalf of the company. Though there is an allegation that the applicant by misrepresenting himself as a director of the company, has received a sum of Rs. 9,12,000/-, however by deposit of the said amount in the Court, which is evinced by CCD 435 dt 11.1.22 (page 440), the amount has been secured. It is also not disputed that the applicant suffers from BL Hip Osteoarthritis Secondary to Sickle Cell Diseases "SS", which is reflected from the reply of the State and so also he has been receiving treatment for the said ailment at Indira Gandhi Medical College & Hospital, Nagpur, considering which I do not see any reason for continuing the incarceration of the applicant in jail. The apprehension expressed by the learned APP regarding the continuing nature of the investigation and the requirement of

the applicant to co-operate in the same can be taken care of by putting conditions. Hence the following order.

8] The application is allowed.

[i] The applicant be released on bail for the offence under Sections 420, 409, 406, 419, 120B of the IPC r/w Section 3 of the MPID Act and Section 66(c) of the I.T. Act, in Crime No. 117 of 21 on his executing PR bond in the sum of Rs. 1 lakh and two sureties in the like amount.

[ii] The applicant shall not tamper with the prosecution witnesses or try to influence them in any manner whatsoever.

[iii] Though the charge-sheet has been filed, the applicant in view of the continuing nature of the investigation shall attend the EOW office on every Monday and Thursday between 11.00 a.m to 2.00 p.m for a period of six month from today and shall render full co-operation to the investigating agency. Any violation of this condition shall result in cancellation of the bail.

[iv] The applicant shall attend the trial when it commences on each and every date and shall ensure that the trial is not protracted on his count.

Rvjalit

JUDGE

Digitally sign by RAJESH
VASANTRAO JALIT
Location:
Signing Date: 04.02.2022 15:58