

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

CRIMINAL APPLICATION (BA) NO.10 OF 2023

Ajit s/o Babu Bele and another

Vs.

State of Maharashtra, PSO, PS, Pophali, Tq. Umarkhed, Dist. Yavatmal

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

Court's or Judge's orders.

Shri V.Patre, Advocate for applicant.

Shri I.J. Damle, APP for non-applicant/State.

CORAM : ANIL L. PANSARE, J.

DATE : FEBRUARY 16, 2023.

This is an application under Section 439 of the Code of Criminal Procedure.

2. The applicants have been arrested on 22.08.2022 in Crime No.384/2021 registered with Police Station, Pophali, Tq. Umarkhed, Dist. Yavatmal for the offence punishable under Section 395 of the Indian Penal Code.

3. The accusation against the applicants is that they have snatched cash worth ₹15 lakh from the informant. The First Information Report (FIR) however indicates that the applicants were arrested on 22.08.2022 only on suspicion. It appears that one Sagar Lalde has lodged FIR that the accused Piraji (absconding) was working with him as a labourer. On or about 20.10.2021, Piraji made a phone call to the informant and said to him that he has found 5kg gold while digging land in pipeline work. Piraji showed willingness to sell the gold at

the rate ₹15 lakh per kg. The informant was interested in purchasing the gold therefore the deal was struck and was scheduled on 23.10.2021. The informant arrived at a spot and met Piraji. Both, Piraji and informant, boarded a car and went to certain distance. After sometime, car was halted. Piraji enquired of cash/amount with the informant. Once it was verified that informant has indeed carried cash with him, Piraji gave signal to the co-accused. The accused persons gathered at the spot and snatched the money bag and also assaulted the driver of the vehicle by sticks and then ran away.

4. In the entire story, no role is attributed to the present applicants. They have been arrested only on suspicion.

5. The learned A.P.P. submits that during the course of the interrogation they have confessed of their involvement in the crime.

6. The confession made by the accused before the Police Officer is not admissible in terms of Section 25 of the Indian Evidence Act. In such circumstances, what is expected from the investigating officer is to collect the evidence on the basis of confession made by the accused persons. The investigating officer has done nothing. Thus, there is no admissible evidence against the applicants.

7. Learned A.P.P submits that the applicants have criminal antecedence. That by itself cannot be a ground for rejecting

the application when there is no incriminating material against the applicants in the present crime.

8. The final report has been filed on 17.11.2022. The applicants are behind bars since 22.08.2022. It is informed that the charge is not yet framed. It will take time to commence and conclude the trial.

9. In the circumstances and considering the nature of evidence against the applicants, no purpose will be served by keeping them behind the bars.

10. The observations made in this order are *prima facie* in nature and are made for deciding the present application only. The learned trial Judge shall not get influenced with the above observations.

11. Resultantly, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicants – (1) Ajit S/o Babu Bele and (2) Chandu alias Chandrakant S/o Babu Bele, be released on bail, in connection with Crime No.384/2021 registered with Police Station, Pophali, Tq. Umarkhed, Dist. Yavatmal for the offence punishable under Section 395 of the Indian Penal Code, on they furnishing P.R. Bond in the sum of ₹25,000/- each with one solvent surety in the like amount.

(iii) The applicants shall, at the time of execution of bond, furnish their address and telephone/mobile number(s) to the Investigating Officer and the Court concerned and shall not change the residence till the final disposal of the case.

(iv) The applicants shall regularly attend the court and cooperate the learned trial Court to complete the trial for the above offences. The applicants shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.

(v) The applicants shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.

(vi) The applicants shall maintain law and order.

(vii) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The application is disposed of in the above terms.

JUDGE

Wagh