

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

CRIMINAL APPLICATION (BA) NO.71 OF 2023

Roshan s/o Prakash Patil Vs. State of Maharashtra, PSO, PS Ramnagar, Wardha,

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

Court's or Judge's orders.

Mrs. P.D. Pisurde, Advocate for applicant.
Shri I.J. Damle, APP for non-applicant/State.
Shri M.V. Rai, Advocate for informant.

CORAM : ANIL L. PANSARE, J.
DATE : FEBRUARY 17, 2023.

This is an application under Section 439 of the Code of Criminal Procedure (for short "Cr.P.C.").

2. The application has been arrested on 09.06.2022 in Crime No.909/2021 registered with Police Station, Ramnagar, Wardha for the offence punishable under Sections 420, 406, 465, 417 read with Section 34 of the Indian Penal Code.

3. The accusation against the applicant is that he alongwith co-accused Anita Wanjari alias Anita Deshmukh have cheated the informant and collected an amount of ₹11 lakh under the pretext of providing a job.

4. Learned advocate for the applicant intends to take benefits of delay in lodging the First Information Report (FIR). However, the record shows that the informant was required to approach the leaned Magistrate under Section

156(3) of the Cr.P.C. It is only after the learned Magistrate took cognizance and passed the order, the FIR has been lodged.

5. The learned A.P.P. submits that the part amount i.e. ₹5,50,000/- has been paid by the informant to the applicant through RTGS. Thus, there is overwhelming evidence against the applicant.

6. However, the learned advocate has invited my attention to order dated 08.03.2022 in Criminal Application (ABA) No.70 of 2022. The co-accused has been granted pre-arrest bail upon the condition that she will deposit ₹5 lakh in the trial Court within a period of four months.

7. Learned advocate for the applicant submits that applicant is also ready to deposit ₹5 lakh in the trial Court in four months and accordingly seeks parity.

8. Though, the learned A.P.P. and learned advocate for the informant have opposed the application, the fact remains that the co-accused, who is similarly placed, has been granted pre-arrest bail.

9. The charge-sheet has been filed. The charge is not yet framed. It will take time to commence and conclude the trial. The applicant is ready to deposit ₹5 lakh within four months.

10. At this stage, learned A.P.P. submits that the applicant is involved in similar such offence which has been committed

in the year 2022 vide Crime No.627/2022 for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code. Thus, he argued that the applicant is habitual offender.

11. Learned advocate for the applicant submits that the applicant has been released on bail in the said crime as well.

12. Considering the fact that trial will take time to commence and conclude and that applicant is ready to deposit ₹5 lakh, the relief can be granted to the applicant.

13. 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.

14. Resultantly, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Roshan s/o Prakash Patil, be released on bail, in connection with Crime No.909/2021 registered with Police Station, Ramnagar, Wardha for the offence punishable under Sections 420, 406, 465, 417 read with Section 34 of the Indian Penal Code, on he furnishing P.R. Bond in the sum of ₹25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall deposit ₹5 lakhs (Rupees Five lakh only) in the trial Court within four months from today. On

failure to deposit the said amount, the order granting bail shall stand cancelled without reference to the Court.

(iv) The applicant shall, at the time of execution of bond, furnish his 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.

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

(vi) The applicant 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.

(vii) The Applicant shall maintain law and order.

(viii) 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