

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

CRIMINAL APPLICATION (ABA) NO.252 OF 2023

Ayazoddin Kazi Anisoddin Kazi

Vs.

State of Maharashtra through Police Station Officer Police Station, Digras, District
Yavatmal

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

Court's or Judge's orders

Mr. Mir Nagman Ali, Advocate for applicant.

Mr. A. M. Kadukar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 22/06/2023

1. The present application is filed for grant of anticipatory bail in connection with Crime No.212/2023 registered with Police Station Digras for the offence punishable under Section 392 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant is that the applicant and informant were travelling together. As the applicant had knowledge that the informant has possessing the cash of Rs.2,50,000/-. Three unknown persons restrained the applicant and informant and the quarrel took place between them on the point of rash driving of motorcycle and the amount was snatched from the informant.

3. On basis of the said report, police have registered the said offence. As per contention of the present applicant that he is not at all involved in the present offence, vague allegations are made against him. Even the recitals of the FIR nowhere shows that the applicant has given any tip to the persons who robbed the informant. Thus, the *prima facie* material to show the involvement of the present applicant. Nowhere reveals from FIR his physical custody is required. It is further contended that considering the *prima facie* allegation the offence is not made out against the present applicant, he was released on ad-interim anticipatory bail. Now during investigation also, no witnesses came forward to say that it is the present applicant who has given the tip that the informant is possessing the amount of Rs.2,50,000/-. Thus, there is no *prima facie* material against the present applicant and hence, he be protected by granting anticipatory bail.

4. The said application is strongly opposed by the State on the ground that during the investigation the statement of one Ashwin Dhale who has specifically stated that he agreed to sale his field to the complainant and therefore, sale deed is fixed on that day. The present applicant was along with the informant and was knowing the fact that informant was having amount of Rs.2,50,000/-. Investigating Officer has seized Rs.50,000/- from the applicant because co-accused

Sheikh Wajid and Sheikh Mohsin have specifically stated that they had given amount of Rs.50,000/- to the applicant. Thus, *prima facie* material is against the present applicant and hence bail application deserves to be rejected.

5. Heard learned Counsel Mr. Mir Nagman Ali for the applicant. He submitted that even taking into consideration the allegations as it is in the FIR, there is nothing on record to show that it is present applicant who gave a tip to the robbers. Thus, there is no *prima facie* material except the statement of co-accused which is not admissible.

6. Per contra, learned APP submitted from the statements of the co-accused it reveals that the present applicant has received the amount of Rs.50,000/- from the co-accused. Thus, *prima facie* material is against the present applicant.

7. Having heard both the sides and on perused of the investigation papers. Admittedly, nothing is revealed during the investigation to show that it is the present applicant who has given the tip to the other accused and said offence is committed by the other accused. Merely on the statement of the co-accused, present applicant is implicated in the alleged offence. During the investigation, the statements of various

witnesses are recorded but no witness came forward to state that co-accused were intimidated by the present applicant. Even the contention of the learned APP is taken into consideration that Rs.50,000/- is seized from the applicant. Then also physical custody of the present applicant is not required as amount is already recovered. Considering the same, bail granted to the present applicant which is to be confirmed. Accordingly, I proceed to pass following order.

(i) In the event of arrest in Crime No.212/2023, registered with Police Station, Digra, for the offence punishable under Section 392 read with Section 34 of the Indian Penal Code, the applicant Ayazoddin Kazi Anisoddin Kazi is hereby released on bail on furnishing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(ii) The applicant shall attend Police Station, Digra as and when required for investigation purpose.

(iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, and not to tamper with the prosecution evidence.

(iv) The applicant shall furnish his mobile/phone number, along with his address with address proof. Additionally, the applicant shall submit the names of his

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two nearest relatives along with their
address with address proof.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate