

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

CRIMINAL APPLICATION (BA) NO.479 OF 2023

Alumalai alias Anna Mani Malai Korvan Vs. State of Maharashtra

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

Court's or Judge's orders.

Shri S.M. Lodha, Advocate for applicant.
Shri S.M. Ghodeswar, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : JULY 11, 2023.

The present application is filed by the applicant under Section 439 of the Code of Criminal Procedure to release him on bail in Crime No.415/2022 registered with Police Station, Wani, District Yavatmal for the offences punishable under Sections 332, 353 and 395 of the Indian Penal Code. The applicant is arrested on 15.07.2022 and since then he is in jail.

2. The accusation against the present applicant is that he alongwith other co-accused person have committed theft at the premises of the Western Coalfields (Open Cast Mine), Ghonsa in the intervening night of 6th and 7th June, 2022. Four persons were found loitering suspiciously. The informant, who was working as a Security Guard at the relevant time, has informed his colleagues about such movements. Four persons assaulted the informant by means of handle of axe and blunt side of the sword. They have snatched mobile from his pocket. The informant has seen

these persons taking 50 meter motor cable wire and thereafter the accused persons fled away in the forest. One of the accused fell down and caught by the security guard. The apprehended accused then disclosed the names of his five associates. On the said report, the police have registered the crime against the applicant.

3. As per contention of the applicant that there is no direct or circumstantial material to connect him with the alleged offence. He is arrested merely on suspicion. No test identification parade was held. Thus, there is absolutely no material to connect him with the alleged offence. The co-accused is released on bail to whom similar role is assigned. Now investigation is completed and charge-sheet is filed. However, custody of the applicant is not required.

4. Learned APP strongly opposed the application on the ground that the present applicant is involved in committing the theft as well as in assaulting the security guard. The name of the present applicant is revealed as one of his associates was caught at the spot itself. If the present applicant released on bail, he will tamper with the prosecution evidence and hence the bail application deserves to be rejected.

5. Heard learned counsel for the applicant and learned APP for the State. Perused the investigation papers. It revealed that general allegations are leveled against the

present applicant no specific role is described by the informant or any of the witness to the present applicant. The present applicant was unknown to the informant as well as the other witnesses. The investigating officer has not conducted test identification parade and there is no justification for non-holding the test identification parade when the assailants were unknown to the informant and other witnesses. The another accused is already released on bail. The role of the present applicant is similar to him. Nothing is recovered from the present applicant. Considering the peculiar facts of the case and nature of evidence, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following orders:

ORDER

- i. The criminal application is allowed.
- ii. The applicant – Alumalai alias Anna Mani Malai Korvan be released on bail in connection with Crime No.415/2022 registered with Police Station, Wani, District Yavatmal for the offences punishable under Sections 332, 353 and 395 of the Indian Penal Code, on he executing PR bond in the sum of ₹25,000/- with one surety in the like amount.
- iii. The applicant shall furnish the cellphone number and address with address proof.

- iv. The applicant shall not tamper prosecution evidence or shall not induce, threaten or pressurize any witness, who are connected with the crime.

With this, the application is disposed of.

JUDGE

Wagh