

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

CRIMINAL APPLICATION (APPP) NO. 938/2023 IN
CRIMINAL APPLICATION (BA) NO. 161/2023

Nishant s/o Pradeep Aggrawal V/s State of Uttar Pradesh and another.

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

Court's or Judge's Order

Mr D.V. Chauhan, counsel for the appellant.
Mr M.J. Khan, APP for the Respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 22/06/2023.

1. Heard.
2. Present application is moved before this Court for relaxation/modification of condition in order dated 03/04/2023.
3. The applicant is facing criminal trial before the Sessions Court at Nagpur in respect of crime No. 7/2018 registered with Police Station Sonegaon, for the offences punishable under Sections 419, 420, 467, 468, 121A and 120B of the Indian Penal Code and Sections 66(D) of the Information Technology Act, 2000 and Sections 3, 4, 5 and 9 of the Official Secrets Act, 1923.
4. The applicant has moved an application for bail bearing Criminal Application (BA) No. 161/2023, while considering the prayer of the bail, this Court has taken

into consideration, the accusation and especially the present applicant is charged for the offence punishable under Section 3 of the Official Secrets Act, 1923.

5. After considering the material available on record to show the involvement of the applicant, this Court considered the decision of the Apex Court also and observed that it is the case of a sort of honey trap. It is further observed by this Court, prima-facie there is no material to suggest that the alleged Act was committed by the applicant with intention. However, to secure the presence of the applicant at the trial, certain stringent conditions can be imposed and directed the present applicant to attend the Police Station Sonegaon, Nagpur i.e. respondent No.2 on every Monday, Wednesday, and Saturday between 12:00 noon to 1.00 p.m. til the conclusion of trial except on the date of trial.

6. By this application, the applicant is praying for modification of the said condition on the ground that the applicant is a Graduate of Bachelor of Engineering from the National Institute of Technology and now, he is appointed as a Joint Director at New Era Hospital, Nagpur. He has received the letter for appointment. The appointment letter is also placed on record. As per the appointment letters and as per the condition, the working hours of the applicant are 10 a.m. to 6 p.m.

Moreover, he is shouldering the responsibility during his working hours and therefore, it is difficult for him to attend the Monday, Wednesday and Saturday between 12.00 p.m. to 1.00 p.m..

7. The said application is strongly opposed by the State on the ground that considering the serious allegations against the present applicant, this Court has imposed the condition and there is no reason to modify the said conditions and prays for rejection of the application.

8. Heard Mr D.V. Chavhan learned counsel for the applicant. He submitted that the present applicant is ready to abide by the conditions of this Court, however, considering that he is shouldering several responsibilities as he is appointed as Joint Director. He is permitted to attend the police station on Saturday.

9. Learned APP M.J. Khan submitted that considering the serious allegations against the present applicant and the trial is already commenced, several witnesses are already examined, the trial would be complete within four to five months, and therefore, no need to modify the condition.

10. Having heard both sides. On perusal of the record and observation of this Court, while releasing the present applicant on bail, this Court imposed the

condition with an intention to secure the presence of the applicant, at the trial. Since releasing him on bail, there is no complaint that he has misused his liberty. Now, he is in employment of New Era Hospital, Nagpur and he is residing at Nagpur. At the same time, this Court has also considered that he is charged with the allegation which covers under Section 3 of the Official Secrets Act, 1923. Hence, the following order:

- a] In the above circumstances, it would be in the interest of justice to direct the present applicant to attend concerned Police Station twice in a week between 12.00 noon to 01.00 p.m on Wednesday and 12.00 p.m. to 01.00 p.m. on Saturday.
- b] The applicant shall not make any excuses to comply the said conditions, on report of contravening the said condition, appropriate order shall be passed.

Criminal Application is **disposed of**.

JUDGE