

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

CRIMINAL APPLICATION (BA) NO.586 OF 2023

Anand s/o Mishri Mate

Vs.

State of Maharashtra, through Pachpaoli, Police Station, Nagpur

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

Court's or Judge's orders

Mr. Parth Malviya, Advocate for applicant.
Mr. A. M. Kadukar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/08/2023

1. Leave is granted to the applicant to correct his Surname in the application.
2. The applicant is seeking bail in connection with Crime No.329/2019 registered with Police Station Pachpaoli, District Nagpur for the offences punishable under Sections 399, 402 of the Indian Penal Code and under Sections 4 and 25 of the Arms Act and Section 135 of the Maharashtra Police Act.
3. As per contention of the applicant, he was initially released on bail in connection with the present crime, however, as he has committed the default in attending the trial, non-bailable warrant is issued and thereafter, his request for grant of bail was rejected.

4. The learned trial Court while rejecting the application has observed that, on 09.11.2021, the applicant was taken into custody and thereafter, he never appeared, in view of that non-bailable warrant was issued against him.

5. Heard learned Counsel Mr. Parth Malviya, for the applicant. He submitted that admittedly, the applicant has committed the default however, he will abide by all the conditions and will remain present before the Court. Inadvertently, he has not noted the dates and therefore, he remained absent. In view of that, he be released on bail.

6. He further submitted that along with him another co-accused namely Dhanraj Bihade was also taken into custody as he also committed the default and this Court has released him on bail in Criminal Application No.912/2022. The applicant is similarly situated therefore, on the same ground, he is also entitled to be released on bail.

7. The learned APP strongly opposed the application on the ground that there are criminal antecedents against the present applicant, if he is released on bail there is a possibility that he would flee away and would not be available for trial.

8. Having heard both the sides and on perusal of the investigation papers, there is no dispute that criminal antecedents are there against the present applicants. However, the trial Court while releasing him on bail has considered the said aspect and released him on bail. This Court has also considered the application of the co-accused who has committed the default and released him on bail. In view of that, the present applicant is also entitled to be released on bail and merely because some criminal antecedents are reported against him is not sufficient to reject this application.

9. In above backdrop and considering the submission of the applicant, the application deserves to be allowed by imposing certain condition. Hence, I proceed to pass following order.

(i) The Criminal Application is allowed.

(ii) The applicant **Anand s/o Mishri Mate** be released on bail in Crime No.329/2019 registered with Police Station Pachpaoli, District Nagpur for the offences punishable under Sections 399 and 402 of the Indian Penal Code and under Section 4 and 25 of the Arms Act and Section 135 of the Maharashtra Police Act, 1951, on furnishing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend Police Station once in a week on Sunday between 10.00 a.m. to 1.00 p.m. till conclusion of the trial.

(4)

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(iv) The applicant shall attend the trial on every date except some exemption is granting.

(v) The applicant shall not seek unnecessary exemption and shall cooperate with the trial Court to dispose of the trial.

(vi) The applicant shall not induce, threat or promise any witnesses who are connected with the alleged crime.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate