



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

CRIMINAL APPLICATION (ABA) NO. 635 OF 2023

Vitthal Haridas Tathod

Vs.

State of Maharashtra, Thru. PSO Hiwarkhed, Tq. Telhara, Distrit – Akola

Office notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders.

Court's or Judge's Orders.

Mr. V.B. Bhise, Advocate for applicant.

Mr. Sooraj S. Hulke, APP for non-applicant/State.

CORAM : G.A. SANAP, J.

DATE : OCTOBER 19, 2023.

Heard.

2. This is an application for anticipatory bail filed by the applicant/accused No.9 in Crime No.295/2023, registered at Hiwarkhed Police Station, Tq. Telhara, District – Akola, for the offences punishable under Sections 143, 147, 149, 323, 326, 327 and 506 of the Indian Penal Code.

3. Learned Advocate for the accused No.9 submitted that the main accused i.e. accused No.1 has been granted anticipatory bail by this Court. Learned Advocate submitted that for the purpose of investigation the arrest of the accused No.9 is not necessary. Learned Advocate submitted that the accused No.9, in terms of the conditions, imposed by this Court attended the Police

Station and co-operated with the police. Learned Advocate, therefore, submits that the interim anticipatory bail granted to the accused No. 9 may be confirmed.

4. Learned APP submitted that for the purpose of recovery of mobile phone and cash, the custodial interrogation of the accused is necessary. Learned APP was submitted that on the basis of the available report he would be unable to make a statement as to whether the accused had attended the Police Station or not for the purpose of interrogation in terms of the conditions imposed by this Court.

5. It is seen that after filing the reply the learned APP has not obtained the necessary instructions from the Investigating Officer as to the interrogation of the accused No.9 on his attendance, pursuant to the condition imposed by this Court. Learned APP is not able to inform the Court as to whether accused had attended the Police Station or not. In my view, it is the duty of the learned APP to apprise the Court about all these facts in an anticipatory bail matter where the interim protection is granted to the accused subject to certain conditions and more particularly, the condition for attendance of the accused. In such matter, simple filing of the reply may not serve the purpose. The failure to attend the Police Station pursuant to the conditions imposed by the Court, would

be the sole ground to reject the bail application. Learned APP are therefore, required to take care of this.

6. In this crime, the main accused i.e. accused No.1 was released on anticipatory bail by this Court. The main role was played by the accused No.1 in the said crime. Perusal of the FIR would show that no role has been attributed to the accused No.9 in the incident of the assault.

7. In this crime, there are 17 accused. The 15 accused have been released on bail by the trial Court and one accused has been granted anticipatory bail by this Court. In the facts and circumstances, this is a fit case to grant the application. Accordingly, the application is allowed.

8. The interim anticipatory bail granted to the accused No.9 vide order dated 21.09.2023 is confirmed.

9. The accused No.9 is directed to attend the Police Station on every Saturday between 11:00 a.m. to 2:00 p.m. till filing of the charge-sheet.

10. The accused No.9 shall not tamper with the prosecution evidence in any manner.

11. The application stands disposed of.

(G.A. SANAP, J.)