

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

CRIMINAL APPLICATION (BA) NO. 1440 OF 2022

Santosh Atmaram Ingle vs. State of Maharashtra

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

Court's or Judge's Orders.

Mr. M. N. Ali, Advocate for applicant.
Mr. I. J. Damle, APP for respondent State.

CORAM : ANIL L. PANSARE J.

DATE : 20/01/2023

The applicant has filed application under Section 439 of the Code of Criminal Procedure, 1973. He has been arrested on 06/11/2021 in Crime No.600/2020, registered with Police Station, Patur District – Akola, for the offence punishable under Section 420, 468 and 471 of Indian Penal Code (IPC).

2. Learned counsel for the applicant commenced his argument by stating that the applicant is behind bars for more than two years and that the maximum punishment which could be imposed by the learned Judicial Magistrate First Class is of three years.

3. There are two flaws in the submissions – first is that the applicant is not behind the bars for

more than two years, he is behind the bars for just more than one year, he having been arrested on 06/11/2021. Secondly, though the learned Magistrate is empowered under Section 29 of the Code of Criminal Procedure to pass the sentence of imprisonment for a term not exceeding three years, Section 325 of the Code permits the Magistrate to forward the accused to the Chief Judicial Magistrate upon his opinion after hearing the evidence filed by the prosecution and the accused that the accused is guilty and he ought to be awarded a punishment more serious than which such Magistrate is empowered to inflict.

4. Learned APP has invited my attention to order dated 02/02/2022 passed by this Court in Criminal Application (BA) No.1338/2021 filed by the applicant. His application came to be rejected. The seriousness of the offence could be understood by reading paragraph 4 and 5 of the said order which reads thus:-

“4] The allegation against the applicant is that when the court of JMFC, Patur, in PWDV No. 12/2016 on 8.11.16 had passed an order granting interim maintenance of Rs.3000/- to the wife of the applicant and it was thereafter directed that the amount shall be deducted from the salary of the applicant, the deduction was done for one month, however, since for the subsequent months there was no deduction, the wife lodged the complaint whereupon an enquiry came to be

made, in which it was revealed that the applicant had submitted two communications dated 6.12.2017 and 10.7.2018, purported to have been issued by the JMFC, Patur to the employer of the applicant, directing that no further deductions ought to be done from the salary of the applicant. These two communications upon verification were found to be forged by the applicant, as a result of which the offence has been registered against him and the charge-sheet has been filed.

5] The above narration would indicate the audacity of the applicant in even going to the extent of forging the communications dated 6.12.2017 and 10.7.2018, purported to be issued by the learned JMFC, for the purpose of avoiding the deductions on account of the payment of interim maintenance. The forging of the communications by the applicant, purported to be claimed to have been written by the JMFC, is an act which in no circumstances can be countenanced by a Court of law, considering which though the charge-sheet has been filed, I am not inclined to entertain the application for grant of bail. The same therefore is rejected."

5. The applicant is a teacher by profession. He is not willing to pay the maintenance amount to his wife as ordered by the Court. Thus, he has no respect to his wife, his profession, so also the order of the Court. He therefore, deserves no sympathy. There is no merit in the case. The application is liable to be rejected. The learned Magistrate will however consider expediting the trial. The application is accordingly rejected.

JUDGE