



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

CRIMINAL APPLICATION (BA) NO.1063 OF 2023

Tausir Ahemad @ Pappu s/o Wasim Ahmed
Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Wani, District
Yavatmal

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

Court's or Judge's orders

Mr. R. M. Daga, Advocate for applicant.
Mr. A. G. Mate, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 11/12/2023

1. The applicant has preferred this application for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.572/2022 registered with Police Station Wani, District Yavatmal for the offence punishable under Sections 420, 120-B, 406 and 413 of the Indian Penal Code. The applicant is arrested on 13.06.2023.

2. As per the accusation, one Yasmin Salat, resident of Wani was acquainted with the informant. One Abid resident of Nagpur used to work as a driver in the house of Yasmin. Said Abid has introduced one Nurain resident of Nagpur to informant. The informant was willing to sale ancestral invaluable ornaments of his wife and he expressed his desire, on that Abid informed the informant that Nurain can tell regarding the good consideration amount of the said ornaments. Prior to

three days of incident, one Aisuddin resident of Nagpur met informant and informed that he should keep ornaments ready and one party will approach to him. However, none turned up. On 16.08.2022, said Aisuddin came to the house of informant along with two persons and took the possession of the ornaments and kept same in his pocket and called the informant another room for delivery of cash amount. Thereafter, by stating the excuse, said Aisuddin and his associates left the house of informant and never turned up. The ornaments were worth of Rs.10,00,000/-, therefore informant has lodged the report.

3. Learned Counsel Mr. Daga for the applicant submitted that as far as the role of the present applicant is concerned, except the identification parade, nothing is on record to implicate the present applicant with the alleged offence. The informant has not disclosed the name of the present applicant, during the investigation. Merely, on suspicion the applicant was arrested. The identification parade was held in the Police Station which is inadmissible. He further submitted that prosecution placed reliance on the CCTV footage, the panchnama of CCTV footage is not drawn. Thus, absolutely there is no material to connect the present applicant with the alleged offence and nothing is recovered from him.

4. Learned APP strongly opposed the application on the ground that the involvement of the

present applicant is revealed during the investigation. He was witnessed in the CCTV footage. The CCTV footage panchnama was drawn. The applicant is not resident of Maharashtra, he is resident of Uttar Pradesh (U.P). After 7 to 8 months he was arrested, considering the same, application deserves to be rejected.

5. Having heard learned Counsel for the applicant and learned APP for the State. Perused the investigation papers. From the investigation papers reveals that the Investigating Officer has drawn the identification parade in the Police Station. The Investigating Officer has also collected the CCTV footage without drawing the CCTV footage panchnama. The statement of the operator of the CCTV footage is also recorded which also nowhere discloses what he has witnessed in the CCTV footage. Nothing is recovered from the present applicant. There is absolutely no material against the present applicant to show his involvement in the alleged offence. The learned APP submitted that the applicant is arrested after 7 to 8 months and if he is released on bail, he would not be available for trial and trial would be held up. However, in absence of any material this submission of the learned APP cannot be taken into consideration to reject the application of the present applicant. However, considering that applicant is resident of Uttar Pradesh, some conditions requires to be imposed on the present

applicant. In view of that, application deserves to be allowed. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Tausir Ahemad @ Pappu s/o Wasim Ahmed** be released on bail on executing PR bond in the sum of Rs. 25,000/- with one solvent surety in the like amount, in connection with Crime No.572/2022 registered with Police Station Wani, District Yavatmal for the offence punishable under Sections 420, 120-B, 406 and 413 of the Indian Penal Code.
- (iii) The applicant shall furnish local surety and two names of the persons with whom he is acquainted in Maharashtra and furnish their cell phone numbers and addresses with address proof.
- (iv) The applicant shall attend Police Station, Wani once in a month, till conclusion of the trial.
- (v) The applicant shall not leave the jurisdiction of Wani without prior permission of the Court.
- (vi) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

(URMILA JOSHI-PHALKE, J.)