



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

997 CRIMINAL APPLICATION NO. 2023 OF 2021

RANU @ RANI KAILAS AGRAWAL
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for the applicant : Mr. Harshal Prakash Randhir
APP for the respondent – State : Mr. G.A. Kulkarni
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 19 JANUARY 2024

ORAL ORDER :

Heard both the sides. Perused the papers.

2. The applicant who is a practising advocate in the Court at Bhusawal, District – Jalgaon, is seeking quashment of crime no. 332 of 2020 registered with Yawal Police station for the offences punishable under section 420, 467, 468, 471 of the Indian Penal Code.

3. As can be discerned, the applicant is being charged on the facts which could be culled down as under:-

4. Some accused from crime no. 62 of 2020 registered with Yawal Police Station for the offences punishable under section 307, 353, 332, 337, 341, 186, 323, 188, 427, 143, 147, 148, 149 of the Indian Penal Code, section 3 and 7 of the Prevention of Damage to

Public Property Act, 1984 and section 135 of the Maharashtra Police Act, 1951 were behind the bars. The applicant by moving an application and filing an affidavit in the Court of the Magistrate at Yawal sought their release by pretending that these accused were granted bail by the District and Sessions Judge, Bhusawal when in-fact there was no such crime registered or order of bail passed by the Court of District and Sessions Judge, Bhusawal particularly in bail application no. 318 of 2020 which was referred to in the application.

5. It transpires that pursuant to some office order passed by the learned Civil Judge Junior Division and Judicial Magistrate First Class, Yawal, Assistant Superintendent of the Court has lodged the FIR on the basis of which the crime has been registered.

6. It appears to be a comity of errors rather than anything else. There is no dispute about the fact that the very same accused were involved in crime no. 62 of 2020 registered with Yawal Police Station for the afore-mentioned offences. It transpires that even there was no bail application moved by them bearing application no. 318 of 2020 in the Sessions Court at Bhusawal, However, it is also apparent that these very accused had preferred bail application no. 388 of 2020, 389 of 2020 and 393 of 2020 in the High Court. By order dated 22-06-2020, they were directed to be released on bail, however, erroneously mentioning in paragraph no. 2 about they having been

arrested in crime no. 59 of 2020 for the offences punishable under section 302, 364 of the Indian Penal Code which sections were subsequently added in that crime.

7. It is thus apparent that though the application as well as the affidavit filed by the applicant was factually incorrect as to number of the bail application and the order having been passed by the Bhusawal Court, it did mention about the bail order having been passed on 22-06-2020 which is the order passed by this Court granting bail to the accused.

8. If such was the state-of-affairs, it is explicitly clear that there was no reason or occasion and indeed any mens rea on the part of the applicant to submit application and swear affidavit with incorrect information. All the afore-mentioned circumstances are clearly indicative of the fact that the very same accused were granted bail by the High Court in the very same crime pursuant to order dated 22-06-2020. The error committed by the applicant was merely a human error rather than anything else.

9. It would be a clear case falling and covered by the instances quoted in ***State of Haryana and Ors. V/s Ch. Bhajan Lal and Ors.; (1992) SCC (Cri) 426.***

10. There is one more aspect. Prima facie, the crime was committed falling in the category covered by section 195 of the Code of Criminal Procedure for the alleged cheating, forgery and attempt to use the forged documents which had happened in respect of a Court proceeding and the offence would be requiring an enquiry under section 340 of the Code of Criminal Procedure. Simply by passing an administrative order without following the procedure contemplated under section 340 of the Code of Criminal Procedure, the learned Magistrate could not have directed the Assistant Superintendent of his Court to lodge the FIR and even the Magistrate would not be in a position to take cognizance of the matter, due to bar contained in Section 195 of the Code of Criminal Procedure.

11. The application is allowed.

12. Crime no. 332 of 2020 registered with Yawal Police station for the offences punishable under section 420, 467, 468, 471 of the Indian Penal Code is quashed and set aside.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/