



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

CRIMINAL APPLICATION (BA) NO. 43/2024

Arshad Hussain @ Bablu @ Aisuddin s/o Gul Hussain V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.M. Daga, counsel for the applicant.

Mr. Nikhil Joshi, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 07/02/2024.

1. The present application is preferred by the applicant for grant of bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with Crime No. 572/2022 registered with Police Station Wani, District Yavatmal for the offences punishable under Sections 420, 120(B), 406, 413 of the Indian Penal Code, 1860. The applicant came to be arrested on 13/06/2023.

2. As per the accusation against the present applicant is on the basis of report lodged by Vinod Khera who alleged that one person by name Abid, who is resident of Nagpur was working as driver in the house of Yasmin. The said Abid has introduced one Murain resident of Nagpur to the informant Vinod. The informant Vinod wanted to sell the ancestral ornaments of his wife, and Abid informed that Nurain will fetch good amount for sell of the ornaments. Prior to 6 months of the incident, the said Nurain had introduced applicant with informant, and applicant came to

his house on 16/08/2022. The informant has handed over red colour bag to him along with the ornaments, and he has not received the ornaments nor received the price of the ornaments thus, he is duped by the present applicant. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned counsel Mr. R.M. Daga submitted that the Test Identification parade is held by the Investigating Agency in the Police Station and except the Identification Parade, nothing is on record to implicate the present applicant with the alleged offence. Though informant has disclosed the name of the present applicant but he was unknown to the informant. It is highly improbable that the person who was unknown, the informant would hand over the ornaments to him. He further submitted that the prosecution has placed reliance on the CCTV footage. The Panchanama of the CCTV Footage is not drawn. Now, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required.

4. Learned APP strongly opposed the application on the ground that the name of the present applicant is mentioned in the FIR. The present applicant was introduced to the informant by one Nurain, the said Nurain was also introduced by one Abid. Thus there is a change of the persons who were aware about the fact that the informant was having an ancestral ornament and therefore, the plan is hatched, and the ornaments are obtained. Considering the

role of the present applicant, bail application deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. Admittedly, besides the statement of the informant there is no other material to show that the informant was having any ancestral ornaments along with him and he handed over the same to the police. Even accepting the case as it is, now the investigation is completed and charge-sheet is filed, as far as the criminal antecedents of the present applicant is concerned, wherein in most of the matters, the summaries are filed by the investigating agency as no role is detected in commission of the said crimes. Considering the above facts of the case, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

- a) The criminal application is allowed.
- b) The applicant- **Arshad Hussain @ Bablu @ Aisuddin s/o Gul Hussain**, is released on bail, in connection with Crime No. 572/2022 registered with Police Station Wani, District Yavatmal for the offences punishable under Sections 420, 120(B), 406, 413 of the Indian Penal Code, 1860, on executing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- c) The applicant shall attend the trial court without seeking any exemption unless there are exceptional circumstances.
- d) The applicant shall furnish his cellphone number (s) and address with address proof before the investigating officer along with the names of his two relatives and their address with address proof.
- e) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal application is disposed of.

[URMILA JOSHI-PHALKE, J.]