



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

CRIMINAL APPLICATION (ABA) NO. 469 OF 2024

Shoeb Vakil Sayyad Vs 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. M.N. Ali, counsel for the applicant.

Mr. C.A. Lokhande, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/09/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No. 43/2024 registered with Police Station Korchi, District Gadchiroli for the offence punishable under Sections 347, 365, 395, 435 read with Section 34 of the Indian Penal Code, 1860 and Section 3/25 of the Arms Act, 1959.

2. The crime is registered on the basis of a report lodged by Devesh Mukeshbhai Patel on an allegation that he is dealing with business and owner of a rice mill. He is also dealing with the selling of scented tobacco. On 26/05/2024 when he was proceeding in Ertiga Car bearing No. MH-35/AG-7001, which he was obtained on rent, and his vehicle was intercepted by four to five persons who were holding weapons in their hands. Thereafter, they snatched his mobile phone and also snatched the cash amount of Rs. 1,20,000/- from him, and he was taken into the forest area. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that, with omnibus allegations, this FIR is lodged against the present applicant. The involvement of the present applicant is merely on the basis of the statement of the co-accused, which is not admissible. He submitted that, as far as the involvement of the present applicant is concerned, there is no material collected by the investigating officer to show his involvement. Now, the investigation is already completed and charge-sheet is already filed, as far as the custodial interrogation of the present applicant is concerned, which is not required. In view of that, the interim protection granted to the present applicant deserves to be confirmed.

4. Learned APP strongly opposed the said application and submitted that during the course of investigation, the spot panchanama was drawn. The various statements are recorded, and the mobile phones were seized. The statements of the arrested accused under Section 27 of the Indian Evidence Act, 1872 were recorded, and at their instance, a two-wheeler, a toy, a pistol, and some cash were collected. He further submitted that the investigation further reveals that the applicant was the mastermind of the crime, and he directed the other accused and gave them instructions through a WhatsApp group named "Gandhiji," of which he was the Admin and the other co-accused were members. The applicant gave instructions to the other co-accused in regard to the time, place, commission, further action, etc. of the crime. The applicant also robbed the original scented tobacco from the informant's Ertiga Car and

loaded it in his mini truck. The applicant has replaced the original tobacco with duplicate tobacco and thereafter sold the original tobacco. It is submitted that, as far as the applicant's involvement in duplicate goods is concerned, the crime is registered against him vide crime No. 49/2024 on 19/06/2024. Thus, considering the involvement of the present applicant in the alleged crime, the application deserves to be rejected as custodial interrogation is required.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers, from which it reveals that during the investigation, the investigating officer has collected WhatsApp chats from which the involvement of the present applicant is revealed. The investigating officer has also recorded the statements of the relevant witnesses, from which it reveals that prior to the incident also, the applicant was seen by the witnesses with a weapon in his hand, and he was also involved in the threatening to the witnesses. The statement of the co-accused also shows his association with them, the crime is registered against the present applicant under the provisions of the Food Safety and Standards Act, 2006, as well as under Sections 188, 272, 273 read with Section 34 of the Indian Penal Code, 1860, shows his association with the duplicate selling of the tobacco.

6. Thus, considering the various statements recorded during the investigation, as well as WhatsApp chats collected through the investigation, the statement of the

co-accused sufficiently shows his involvement with the alleged offence. In view of that, prima-facie case is made out against the present applicant, and therefore, the application deserves to be rejected. Accordingly, I proceed to pass the following order.

The criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J.]