



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

CRIMINAL APPLICATION (BA) NO.899 OF 2024

Raja @ Jangali s/o Suresh Malewar
Vs.

The State of Maharashtra, Through Police Station Officer, Police Station,
Tumsar, District Bhandara

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

Court's or Judge's orders

Mr. K. S. Motwani, Counsel for the applicant.
Mr. S. A. Ashirgade, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/11/2024

1. By this application, the applicant is seeking bail in connection with Crime No.401/2021 registered with Police Station, Tumsar, District Bhandara for the offences punishable under Sections 302 and 114 read with Section 34 of the Indian Penal Code.

2. Initially, the applicant approached this Court by preferring the Criminal Application (BA) No.670/2022 for grant of bail. This Court has considered the role and released him on bail on condition that he shall not enter within the vicinity of Tumsar, till conclusion of the trial, except for the purposes of attendance in trial. Subsequent to the said order, the State sought cancellation of bail of the non-applicant on the ground that on 28.08.2022, the Police Constable Mangesh Gedam, who was on

patrolling duty, received the secret information that one unknown person was coming from the Tamaswadai, and carrying a sharp weapon, therefore, the trap was arranged. The police staff, along with the said panchas searched and the present applicant was found, who was carrying a sharp weapon like a sword and entered into the vicinity. Considering the same, bail granted to the present applicant was cancelled therefore, he surrendered before the Principal District Judge and Sessions Judge, Bhandara on 08.08.2024 and he was taken into custody.

3. Heard learned Counsel Mr. Motwani for the applicant who submitted that he was under the impression that he is restrained from entering into the vicinity of village Khapa and by mistake, he entered into the vicinity of Tumsar. Now, he undertakes that he would not again enter into the vicinity of Tumsar, till the culmination of trial. Considering it was a *bona fide* mistake committed by the present applicant, he be released on bail.

4. Learned APP strongly opposed the said application and submitted that the applicant has not entered merely into the vicinity of Tumsar, but he entered along with a sharp weapon and during the patrolling duty the Constable has arrested him by conducting the raid. Thus, it was an intentional act of

the present applicant and therefore, the application deserves to be rejected.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the reply as well as the affidavit filed by the wife of the applicant. There is no dispute that the bail granted to the present applicant was cancelled as he entered into the vicinity along with a sharp weapon. The weapon was already seized in presence of the panchas and the report was lodged. Considering the affidavit was filed by the wife of the present applicant and the contention of the applicant that he was under the wrong impression that he was refrained from entering into the Khapa village and therefore, he entered into the vicinity of Tumsar, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The applicant **Raja @ Jangali s/o Suresh Malewar** shall be released on bail, in connection with crime No.401/2021 registered with Police Station, Tumsar, District Bhandara for the offences punishable under Sections 302 and 114 read with Section 34 of the Indian Penal Code, on executing PR Bond of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter within the vicinity of Tumsar, till culmination of the

trial, except for the purposes of attendance in trial.

(iv) The entering in the vicinity of Tumsar once also would lead to the cancellation of bail.

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)