

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

CRIMINAL APPLICATION (ABA) NO.69 OF 2021

(Amrindersingh Harmindersingh Bagga Vs. State of Maharashtra thr. PSO PS
Wathoda, Nagpur)

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

Court's or Judge's orders.

Mr. N.B. Bargat, Advocate for Applicant.
Mr. N.R. Rode, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 5th MARCH, 2021.

The applicant is apprehending arrest in Crime 354/2020 registered with Police Station Wathoda, Nagpur for offences punishable under Sections 420, 467, 468, 471, 447, 385 and 506 read with Section 34 of the Indian Penal Code.

2. Vide order dated 26.02.2021, I granted interim pre-arrest protection and directed the applicant to attend the Economic Offences Wing on 1st, 2nd and 3rd March, 2021 from 10:00 a.m. to 03:00 p.m. and to co-operate with the Investigating Officer. It was also made abundantly clear, that breach of the condition to attend the Economic Offences Wing shall entail immediate cancellation of bail.

3. It is not in dispute that the applicant did not attend the Economic Offences Wing even on one occasion

and that the condition of interim pre-arrest protection is clearly breached.

4. The very purpose of introducing Section 438 on the statute book pursuant to the recommendation of Forty-First Report of Law Commission of India was to protect a person who is either falsely implicated or whose arrest and custodial interrogation may not be necessary in view of readiness and willingness to join the investigation and to co-operate with the Investigating Officer.

5. The application seeking pre-arrest protection, is therefore, liable to be dismissed on the short ground that the applicant did not comply with the condition of interim pre-arrest protection. Notably, the allegation against the applicant is serious. If convicted, the punishment may be extremely severe. Perusal of the report reveals that the applicant allegedly threatened the complainant and made an attempt to extort Rs.68,00,000/- (Rupees Sixty-Eight lacs). As regards the commission of offences under Sections 420, 467, 468 and 471, the prosecution is implicating the applicant with the aid of Section 34 of IPC on the premise that he shared a common intention with the co-accused.

6. Considering the nature of the allegations, the material on record and the failure or rather the refusal of the applicant to attend the police station and join investigation, no case is made out for exercise of discretion.

7. The application is dismissed.

8. At this stage, the learned counsel for the applicant Mr. Bargat fairly discloses that the applicant is facing two other prosecutions including one under the Narcotic Drugs and Psychotropic Substances Act, 1985 (N.D.P.S. Act) and submits that it is presumably in view of the said prosecutions, that the applicant did not report at the police station. The fact that the applicant has the propensity to indulge in crime is an additional reason for rejection of this application.

JUDGE