

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

Criminal Application (ABA) No. 240 of 2022

Gunwant S/o Wamanrao Tumsare

Versus

State of Maharashtra, through Police Station Officer, Police Station
Hudkeshwar, Nagpur

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

Court's or Judge's Order

Shri Rajnish Vyas, Advocate for the applicant.

Shri A.M. Deshpande, APP for the State/non-applicant
no.1.

Shri P.S.Tiwari, Advocate for the non-applicant no.2.

CORAM : ANIL S. KILOR, J.

DATED : 4th JULY, 2022.

The applicant is seeking pre-arrest bail under Section 438 of the Code of Criminal Procedure in Crime No. 47 of 2022 dated 18th January, 2022 registered with Police Station Hudkeshwar Dist. Nagpur for the offence punishable under Section 379 of Indian Penal Code.

2. Learned counsel for the applicant submits that the applicant has been falsely implicated in the alleged offence. He further submits that the present First Information Report is an outcome of the complaint

made by the applicant against the complainant in the month of December, 2021 alleging misappropriation of funds. He therefore, submits that the applicant is entitled for grant of pre-arrest bail.

3. He further points out the delay caused in lodging the report. He submits that the date of alleged incident is dated 2nd October, 2021, whereas, the First Information Report came to be lodged on 18th January, 2022. He therefore submits that the delay creates doubt about the veracity of the allegations.

4. On the other hand, learned Additional Public Prosecutor opposed the application and he submits that when the applicant was granted ad-interim anticipatory bail, he did not co-operate in investigation.

5. He further points out that the documents which were found in possession of applicant, were in the car at the time of theft. Thus, it *prima facie* shows the involvement of the applicant in the alleged offence.

6. Learned Additional Public Prosecutor further submits that the custody of the applicant is necessary for recovery of the stolen car.

7. He further points out the criminal antecedents of the applicant. It is submitted that there are about nine offences other than the present offence registered, against the applicant.

6. Shri Tiwari, learned counsel appearing on behalf of the complainant submits that after obtaining the documents which were there in the car while committing theft, the applicant used those documents and entered into some transaction about the land.

7. He lastly points out that the delay in lodgement of the report was because of the relations between the applicant and the complainant. He further submits that complainant waited for a reasonable period looking to the relations and he was hopeful that the applicant will return back the car. However, when it was confirmed that he would not return back the car, the complaint was lodged.

8. I have perused the First Information Report, the documents filed alongwith the application, reply and the crime chart.

9. In this case, the allegations are about the theft of the complainant's car. Car is not yet recovered and therefore the prosecution wants the custody of the applicant to recover of the said car.

10. The criminal antecedents against the applicant shows that there are about nine offences other than the present one, which includes the offences under Sections 324, 326, 452, 448, 506(b), 427, 143, 147, 148, 149, 420, 468, 471 etc. of Indian Penal Code.

11. Documents namely possession letter and power of attorney found in possession of the applicant supports the case of the prosecution.

12. In that view of the matter, considering the criminal antecedents of the applicant and submission of the learned Additional Public Prosecutor for custodial interrogation, I am of the opinion that this is not a fit case for grant of pre-arrest bail. Accordingly, I pass the following order.

- i. Criminal application stands rejected.

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

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by
SACHINDANAND
K NAIR
Date: 2022.07.05
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