

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

Criminal Application (ABA) No.587 of 2021

Gajendra S/o Mahanand Pantawane

Versus

State of Maharashtra, through P.S.O., Police Station Pachpaoli, Nagpur
(City), Nagpur

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

Court's or Judge's Order

Shri S.S. Deshpande, Advocate for applicant
Shri S.D. Sirpurkar, A.P.P. for non-applicant/State

CORAM : ANIL S. KILOR, J.
DATED : 28 FEBRUARY 2022

By way of present application, the applicant is seeking grant of anticipatory bail in Crime No. 642 of 2021 registered with Pachpaoli Police Station, Nagpur City on 09/08/2021 on a complaint of one Pravin Kothari against the applicant for the offence punishable under Sections 406, 420 and 506 of the Indian Penal Code.

2. The prosecution story is that:

On 09/08/2021, the informant Pravin Kothari, Resident of 210, Babulban, Near Dr. Ambedkar Chowk,

Nagpur, lodged report before the Panchapaoli Police Station, alleging that, he was running a business of Jewelry. In 2018, he acquainted with one Vijay Somkuware. Said Vijay Somkuware introduced the complainant with the present applicant. Thereafter, the complainant and applicant meet so many times, as result they became good friends. In 2018, applicant told the complainant that, he has a shop at Plot No.72, Khumbhare Bhawan, adjacent to the shop of Asare Jewelers, Indora Chowk, Nagpur. The complainant and applicant had decided to start Jewelry shop at aforesaid shop in partnership. Accordingly deed of partnership was drafted and executed before the Notary. As per terms and conditions of partnership, the applicant has given possession of shop to the complainant and complainant has invested Rs.5,00,000/- in said partnership firm, so also complainant arranged gold, silver, and germs for the purposes of business.

The complainant further alleged that, on 11/09/2018 partnership deed was duly executed before Notary at Nagpur. Thereafter, complainant had applied for Gumasta to the concerned authority. Thereafter, complainant has started furniture worked at above shop. On 20/09/2018,

the original owner of aforesaid shop had obstructed said renovation and furniture work and thereafter he locked said shop. Therefore, complainant lodged report before respondent against original owner of shop, as result offence was registered against them vide crime no.194/2018. Since then, shop was closed, therefore, on 10/02/2020 the complainant made call to the applicant and asked his amount, however, the applicant threaten him about the dire consequences. Hence, the complainant lodged report on 04/03/2020 at Police Station Panchpaoli, Nagpur.

3. Shri Deshpande, learned Counsel for the applicant submits that the complaint was lodged by the complainant out of a dispute relating to business transaction. Thus, it is submitted that as it is the civil dispute, this Court may grant anticipatory bail to the applicant.

4. Shri Deshpande, learned Counsel for the applicant submits that the amount which was received by the applicant from the complainant i.e. Rs.5,00,000/- it has been deposited in the Court and therefore, this Court may consider to confirm ad-interim bail granted to the applicant on 08/09/2021.

5. On the other hand, learned APP strongly opposed the application and submits that he took the amount of Rs.5,00,000/- and gold ornaments worth Rs.10,00,000/- from the complainant and handed over the key of the shop of which the applicant did not pay rent for about 10 years. Non-payment of rent resulted into taking of forcible possession by the landlord from the complainant.

6. Shri Shirpurkar, Learned APP further points out that thereafter, on 10.02.2020, the applicant made a phone call to the father of the complainant and gave threats and therefore, the complaint was lodged.

7. It is submitted that though the applicant has deposited Rs.5,00,000/- to show his bonafides, the police wants to recover the gold ornaments given to the applicant amounting to Rs.10,00,000/-. He therefore, prays for custody of the applicant.

8. On perusal of the case diary and the statements recorded, *prima faice*, there is a material showing involvement of the applicant in the alleged crime. As the police wants to recover the gold ornaments given by the

complainant to the applicant, I am of the opinion that the applicant is not entitled for grant of anticipatory bail.

9. Moreover, looking to the further conduct of the applicant of giving threats to the father of the complainant, whereby he tried to pressurise for not to make demand of amount and gold ornaments. Hence, I am not inclined to confirm the ad-interim anticipatory bail granted by this Court on 08/09/2021.

10. The learned Counsel for the applicant, at this stage, prays for permission to withdraw Rs.5,00,000/-, which was deposited by the applicant to show his bonafide.

11. The amount of Rs.5,00,000/- was deposited by the applicant, on his own to show his bonafides. As the applicant is not disputing the acceptance of Rs.5,00,000/- from the complainant, I am of the opinion that the request of learned Counsel for the applicant for refund of the amount cannot be accepted and in my opinion the amount should be transferred to the Trial Court. The Trial Court shall consider the request if so made by the applicant.

12. Accordingly I passed the following order:

- i) The application is rejected.
- ii) The Registry is directed that the amount of Rs.5,00,000/- deposited by the applicant in this Court, shall be transferred to the Trial Court.

The Criminal Application is disposed of accordingly.

[ANIL S. KILOR, J.]

R.S.Sahare