

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

CRIMINAL APPLICATION (ABA) NO.608 OF 2022

(SHIRAZ SYED KAZI SYED MINHAJODDIN KAZI...VS.. STATE OF MAH. THR. PSO PS SITABULDI,
NAGPUR)

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

Court's or Judge's orders

Shri F.T.Mirza, Adv. a/w Shri A.B.Mirza, Advocate for Applicant.
Shri S.M.Ghodeswar, A.P.P. for Non-applicant/State.
Shri M.N.Ali, Advocate to Assist Prosecution

CORAM : ANIL S. KILOR, J.

DATED : SEPTEMBER 08, 2022.

1. Heard.
2. By this application under Section 438 of the Code of Criminal Procedure the applicant is seeking pre-arrest bail in Crime No.230 of 2022, registered with Police Station, Sitabuldi, Nagpur for the offences punishable under Sections 420, 406 read with Section 34 of the Indian Penal Code, 1860.
3. Shri Mirza, learned counsel for the applicant submits that even if the allegations made in the F.I.R. are taken on its face value, the dispute is of a civil nature and no offence attracts in this case. He, therefore, submits that the applicant is falsely implicated in the alleged offence and as such custodial interrogation of the applicant is not necessary.
4. On the other hand, the learned A.P.P. strongly opposes the application and prays for rejection of the present application.

5. Shri Ali, learned counsel, who is assisting the prosecution on behalf of the complainant, submits that there are other complainants of whom the applicant has defrauded the amount. He, therefore, submits that Section 420 of the Indian Penal Code was rightly invoked in this case. Accordingly, he prays for rejection of the present application.

6. I have perused the case diary and the application.

7. In this case, the allegations made in the F.I.R. show that a dealership of Mobile Bio-diesel Van was awarded to the complainant, which was subsequently cancelled and therefore, the complaint came to be lodged. In the case of grant or cancellation of dealership it can not be said that it has any criminal element involved. As far as recovery of amount, which alleged to have not paid by the applicant on cancellation of the dealership, other remedies are available. In any case, *prima-facie*, it is doubtful that any offence would attract in this case.

8. In that view of the matter, I am of the opinion that custodial interrogation of the applicant is not necessary. Accordingly, I pass the following order:

- i) The application is **allowed**.

- ii) The order dated 18/08/2022, granting ad-interim bail to the applicant is confirmed.
- iii) The applicant shall attend the concerned Police Station as and when his presence is required.

The Criminal Application is **disposed of** accordingly.

JUDGE

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