

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

CRIMINAL APPLICATION (ABA) NO.609 OF 2022

Karuna w/o Dharmendra Fule and another Vs. The State of Maharashtra through
PSO, PS Jaripatka, Dist. Nagpur

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

Court's or Judge's orders.

Shri G.D. Dani, Advocate for applicants.
Shri S.A.Ashirgade, APP for non-applicant/State.

CORAM : G.A. SANAP, J.
DATE : NOVEMBER, 16 2022.

The applicants who are arrayed as accused Nos.2 and 3 in Crime No.492/2022 registered at Jaripatka Police Station, Nagpur for the offences punishable under Sections 420, 120-B and 406 read with Section 34 of the Indian Penal Code have come before this Court for anticipatory bail.

2. According to applicants they are innocent. They have been falsely implicated in this crime. They are permanent residents of Nagpur City. According to them, husband of informant is doing unauthorized money lending business. The amount of Rs.5 Lakh was borrowed by accused No.2 from informant's husband. The accused No.2 was introduced to the husband of the informant by the accused No.3. The interest was charged @ of Rs.20%. The dispute arose between the parties on account of money lending

transactions. Notice dated 02.08.2021 (page 32) was issued by accused No.3 to the husband of the informant and thereby she had placed on record the facts relating to actual transaction. It is stated that they are ready to co-operate to the Investigating Officer. They are ready to abide by the conditions that may be imposed by this Court. Their arrest is not necessary for custodial interrogation of any kind, in the teeth of the facts stated in the First Information Officer.

3. State through Investigating Officer has filed the reply and opposed the application. It is contended that the accused Nos. 1 to 3 took Rs.14 Lakhs from the husband of the informant on the assurance that they would arrange for job to the informant in Zilla Parishad School. The accused persons committed the serious offence of cheating. Their modus operandi needs to be investigated thoroughly. They have not repaid the amount of Rs.14 Lakhs, which they had collected from the husband of the informant. They have not entitled for the anticipatory bail in the teeth of the facts stated in the First Information Report. The possibility of tampering with prosecution evidence and applying pressure to the prosecution witnesses cannot be ruled out, if the protection as sought for by the applicants is granted in their favour.

4. I have heard the learned Advocate for the applicants and learned APP for the State. Perused the record and proceedings.

5. The First Information Report was registered on

30.07.2020. The application for anticipatory bail made by the accused Nos.2 and 3 before the Sessions Judge came to be rejected. It is to be noted that on 19.08.2022 this Court (Coram:- Anil S. Kilor, J.) was convinced to grant ad-interim protection from arrest to the applicants. It is pertinent to mention that there is no grievance on the part of the prosecution that the applicants either flouted the conditions or failed to extend cooperation to the Investigating Officer in the investigation of the crime. In my opinion, the conduct of the applicants would be required to be born in mind while deciding the application.

6. Considering the nature of the offence disclosed from the First Information Officer, it would appear that investigation in this crime can be carried out without arresting the applicants/accused Nos.2 and 3. The statement made in the application with regard to the real nature of transaction can be seen from the legal notice dated 02.08.2021 issued by accused No.3 to the husband of the informant. Perusal of the First Information Report would *prima-facie* indicate that so called amount of Rs.14 Lakhs was paid to the accused persons from July, 2019 to January, 2020.

7. In my view, on the basis of facts placed on record, it is apparent that applicant/accused Nos. 2 and 3 have made out the case to grant protection from arrest to them. The apprehension placed on record by the prosecution can be taken care of by imposing appropriate conditions. On the

basis of said apprehension alone, the anticipatory bail sought for by the applicants cannot be rejected. I therefore, conclude that considering the facts and circumstances, case is made out to grant protection subject to appropriate conditions. The application is allowed. Ad-interim anticipatory bail granted to the applicants vide order dated 19/08/2022 stands confirmed on same terms and conditions.

8. The applicants /accused Nos.2 and 3 shall attend the concerned Police Station on every Sunday between 9.00 a.m. and 11 a.m. till filing of the charge sheet.

9. The Criminal application stands disposed of.

JUDGE

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