

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

CRIMINAL APPLICATION (ABA) NO.171 OF 2023
(Abhyachandra s/o Dnyaneshwar Patil Vs. State of Maharashtra)

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

Court's or Judge's Order

Shri S.W. Sambre, Advocate for the applicant.
Shri A.M. Kadukar, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 15, 2023.

Heard.

2. Present application is filed by the applicant for grant of anticipatory bail in the event of his arrest in respect of Crime No.91/2023 registered at police station Umred, District Nagpur for the offence punishable under Section 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code.

3. The applicant is apprehending arrest at the hands of police on the basis of report lodged by Ashish Pandhari Raut on an allegation that the co-accused has cheated the informant to the tune of Rs.22,00,000/-. The only allegation against the present applicant is that the co-accused Prakash Gaikwad has stated during investigation about the involvement of the present applicant in the alleged offence. As per the contention of the applicant, in fact he has also paid Rs.1,00,000/- to the said Prakash Gaikwad and he is the victim. However, on the basis of statement made by the co-accused, present

applicant is also made an accused. He has paid Rs.1,00,000/- to Prakash Gaikwad for getting retail outlet of Adani Petrol Pump by issuing a cheque. Thus, he is also the victim and said Prakash Gaikwad as a security issued a cheque of Rs.1,00,000/- to the applicant. Thus, as per the contention of the present applicant that the investigating agency merely on the basis of statement of co-accused made him an accused in fact, he is a victim. His custodial interrogation is not required and considering the same he is protected by granting ad-interim anticipatory bail.

6. Learned Additional Public Prosecutor strongly objected the said application and submitted that by considering the contention of the present applicant, this Court directed the Investigating Officer to file an additional affidavit. The Investigating Officer has filed additional affidavit and submitted that the statement of the present applicant as well as the statement of the co-accused is required and the Investigating Officer further submitted that the present applicant could not produce the cheque, therefore, this contention is not supported by any material. It is further submitted by the State that his custodial interrogation is required, and therefore, the application deserves to be rejected.

7. It is further contended that there is previous antecedents against the present applicant.

8. Heard learned Counsel Shri Sambre for the applicant. He reiterated the contention and submitted that in fact, the applicant is a victim. The original cheque is

with the present applicant and he is ready to produce the same for the investigation purpose. Regarding the criminal antecedents he submitted that the applicant is already discharged from the previous crime. Thus, now no criminal antecedents are there against the present applicant, and therefore, the anticipatory bail granted to him deserves to be confirmed.

7. *Per contra*, learned Additional Public Prosecutor submitted that the custodial interrogation of the present applicant is required and hence, application deserves to be rejected.

8. Having heard both the sides and on perusal of the recitals of the FIR it is apparent that the crime is registered on the basis of report lodged by Ashish Pandhari Raut. In the FIR admittedly, there is no allegation against the present applicant. On the contrary, in the FIR also it is stated that the present applicant has also paid Rs.1,00,000/- to the said Prakash Gaikwad. Thus, it is apparent that the accusation of the present applicant is only on the basis of statement of the Prakash Gaikwad.

9. Considering the additional affidavit of the Investigating Officer also it reveals that custodial interrogation of the present applicant is not at all required, therefore, the anticipatory bail granted to the present applicant deserves to be confirmed. Accordingly, I proceed to pass the following order :

- (i) The application is allowed.
- (ii) The anticipatory bail granted to the applicant - Abhyachandra s/o Dnyaneshwar Patil in the event of arrest in Crime No.91/2023 registered at Umred police station for the offence punishable under Section 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code is confirmed and he be released on bail on executing P.R. Bond in the sum of 25,000/- (Rs. Twenty five thousand) with one surety in the like amount.
- (iii) The applicant shall attend the police station as and when required for investigation purpose and shall produce the cheque which is with him before the Investigating Officer.
- (iv) The appellant shall furnish his cell phone number and detail address along with address proof and shall not change the same without permission of the Court.
- (v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(URMILA JOSHI-PHALKE, J.)