

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

CRIMINAL APPLICATION (ABA) NO.212 OF 2023
(Dasharath s/o Rayasing Chavhan 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 R.J. Shinde, Advocate for the applicant.
Shri I.J. Damle, APP for State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 27, 2023.

Heard.

2. Present application is filed by the applicant for grant of anticipatory in connection with Crime No.109 of 2023 registered at police station Manora, District Washim for the offence punishable under Section 409 of Indian Penal Code.

3. The applicant is apprehending arrest as the crime is registered on the basis of the report lodged by Naib Tahsildar, Manora wherein it is alleged that he has misappropriated the goods received for Fair Price Shop worth Rs.7366/-.

4. As per the contention of the applicant, in fact he is not at all connected with the alleged offence. Merely on suspicion the crime is registered against him. Now, the investigation is completed. His custodial interrogation is not required. As per the direction of this Court he has attended the police station and cooperated with the investigation agency.

5. Said application is strongly opposed by the State on the ground that the applicant has misappropriated the goods which are reserved for the poor strata of the society, therefore, his physical custody is required and hence, the application deserves to be rejected.

6. Heard learned Counsel for the applicant. He reiterated the contention and submitted that in view of the order of this Court, present applicant attended the police station. The goods are already recovered, now nothing is to be recovered from the present applicant. Hence, his custodial interrogation is not required. Whereas learned Additional Public Prosecutor strongly opposed the application and reiterated the contention that the applicant has misappropriated the goods which are reserved for poor strata of the society.

7. Having heard both the sides and on perusal of the material on record, it reveals that the goods are already recovered. The applicant has attended the police station, his physical custody is not required. As far as the contention of the State is concerned that for interrogation purpose the custody of the present applicant is required, is not sustainable as the interrogation can be made even if the applicant is released on anticipatory bail.

8. Considering this aspect, application deserves to be allowed. Accordingly, I proceed to pass the following order :

- (i) The application is allowed.
- (ii) In the event of arrest the applicant - Dasharath s/o Rayasing Chavhan in connection with Crime No.109 of 2023 registered at police station Manora, District Washim for the offence punishable under Section 409 of Indian Penal Code, be released on anticipatory 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 concerned Police Station as and when required for the investigation purpose.
- (iv) 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.)

**Divya*