

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

CRIMINAL APPLICATION (ABA) NO. 227/2023

SACHIN RAMRAO GAIKWAD
VS
STATE OF MAHARASHTRA, THR. ITS P.S.O., POLICE
STATION SITABULDI, DIST. NAGPUR

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

Court's or Judge's Order

Mr N.B.Bargat, advocate for the applicant.

Mr A.M.Kadukar, APP for the respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 12/06/2023.

1. Heard.
2. The applicant is apprehending arrest in Crime No. 83/2023 registered with Police Station, Sitabuldi, Nagpur City for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code.
3. This Court by considering the guidelines issued by the Hon'ble Apex Court in the case of ***Satender Kumar Antil Versus Central Bureau Of Investigation & Anr reported in 2022 (10) SCC 51 and Arnesh Kumar v/s State of Bihar, reported in (2014) 8 SCC 273*** wherein observed that while considering the offence punishable upto seven years as held that the compliance of Section 41 of the Code of Criminal Procedure is

mandatory and held that a provision of Section 41 of the Code is complied, then number of cases which come to the Court for grant of anticipatory bail will substantially reduce. The Apex Court has held that the Police Officer before arresting must put a question to himself, why arrest? Is it really required? What purpose it will serve? and what object it will achieve?. It is further observed that in view of the observations of the Hon'ble High Court was the Police Officer has to take a decision whether are not the accused caused he has to record in writing in support of the decision. If the Police Officer takes a decision not to arrest the accused, the said decision shall be communicated to the concerned Magistrate within two weeks from the date of institution of the case. By considering the guidelines issued by the Hon'ble Apex Court, this Court has protected the present applicant by granting ad-interim anticipatory bail. While releasing the present applicant on bail, the condition was imposed that the applicant shall attend the Sitabuldi Police Station, Nagpur on 2nd, 3rd and 4th May 2023 between 4.00 to 6.00 p.m. and as and when required for investigation purpose.

4. In view of the said directions, it was obligatory on the part of the present applicant to attend the concerned Police Station and cooperate with the investigating agency.

5. The crime is registered on the basis of a report lodged against the present applicant. On the basis of report lodged by Shankar Dhannuji Dhurate, wherein it is alleged that the present applicant has shifted the informant and other, so many persons by promising to provide a job to the Son of the informant as well as other prosecution witnesses. On the basis of the said report, the police have registered the offence against the present applicant. As per the contention of the learned counsel for the applicant that physical custody of the present applicant is not required, and hence he be released on anticipatory bail.

6. The said application is strongly opposed by the learned APP on the ground that as per the condition imposed by this Court while releasing the present applicant on bail, directed the applicant to remain present and to cooperate with Investigating Agency. The applicant has not attended the Police Station and not co-operated with the investigation, due to which investigation is hampered, hence the application for the grant of anticipatory bail deserves to be rejected.

7. Heard learned counsel for the applicant as well as learned APP for the State. Considering that the crime is punishable with a punishment which may extend to seven years, this Court has protected the present

applicant, in view of the guidelines issued by the Hon'ble Apex Court in the case of *Satender Kumar Antil Versus Central Bureau Of Investigation & Anr reported* referred (supra). The applicant was released on anticipatory bail, on condition that he shall remain present and shall cooperate with the Investigating Agency. From entries of the Station Diary, it reveals that the applicant has not attended the Police Station and has not cooperated with the Investigating Agency.

8. Learned counsel for the applicant also submitted his inability to seek instructions on the ground that the applicant has not contacted him since then. In the fact and circumstances, the criminal application of the present applicant deserves to be **rejected**. Hence, I proceed to pass following order.

Accordingly, the criminal application is **rejected**.

JUDGE