

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

CRIMINAL APPLICATION (ABA) NO. 255/2023

VIJAY S/O. SITARAM KARANDE

VS

THE STATE OF MAH. THR. PSO, PS SIHORA, TAH. AND DIST. BHANDARA.

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

Court's or Judge's Order

Mr R.R. Rajkarne, advocate for the applicant.

Mr S.M.Ghodeswar, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 09/06/2023.

1. Heard.
2. By this application, the applicant is seeking anticipatory bail in the event of his arrest in respect of Crime No. 56/2023 registered with the Police Station Sihora for the offence punishable under Section 420, 467, 468 of the Indian Penal Code.
3. The applicant is apprehending arrest at the hands of Police as crime is registered on the basis of report lodged by Manoj Natthu Ilpate, on an allegation that the informant is the owner of Gut Nos. 488/1 and 488/2 situated at Mouza Sindhapuri. He decided to purchase the land and paid the amount of Rs. 26,40,000/- to the present applicant. Thereafter, the present applicant denied the execute the sale-deed and also not returned his amount. On the basis of said false report, the police have registered the offence against

the present applicant and hence he is apprehending arrest at the hands of Police. The crime is registered under Section 420, 467, 468 of the Indian Penal Code which are punishable by maximum imprisonment which may extend upto seven years.

4. The investigating officer has bound to follow the directions 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*. The Hon'ble Apex Court in the case of *Satender Kumar Antil (supra)* already that even if the cognizable offence is registered the arrest of the accused is not mandatory and the investigating officer before arresting must ascertain whether the arrest is required or not?

5. In view of the above directions, here also it is not necessary to ascertain whether arrest of the applicant is required. From the recitals of the FIR, it is apparent that the dispute arose as there is a breach of agreement. Thus the dispute is of civil nature. Immediate custody of the present applicant is not at all required. As observed by the Hon'ble Apex Court that in view of the Sub-Clause (1)(b)(i) of Section 41 has to be read along with sub Clause-1, and therefore both the elements are reason to be believe and satisfaction arrest are mandatory are and accordingly are to be recorded by the Police Officer.

6. Here in the present case, the immediate arrest apparently not required for carrying out the investigation. In view of that application deserves to be allowed by imposing certain conditions.

7. Learned APP strongly opposed the said application. However, firmly admitted that apparently the dispute appears to be in the nature of breach of agreement. Considering the nature of the dispute an immediate custody is not at all required. Hence, criminal application deserves to be allowed. Accordingly, I pass the following order:

- a) Criminal Application is allowed.
- b) Applicant -Vijay Sitaram Karande is released on anticipatory bail in the event of his arrest in connection with Crime No. 56/2023 registered with the Police Station Sihore for the offences punishable under Sections 420, 467, 468 of the Indian Penal Code, on furnishing P.R.Bond of Rs. 25,000/- with one solvent surety in like amount.
- c) The applicant shall attend the concerned Police Station as and when required for the investigating purpose.
- d) The applicant shall submit his cell phone number and address along with address proof. He shall also

submit the names of his two nearest relatives along with address proof.

- e) The applicant shall not induce, threat or promise any of the witness who are connected with the present case.

JUDGE