

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

CRIMINAL APPLICATION (ABA) NO.307 OF 2023

(Nilesh Anil Tardeja 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 P.R. Agrawal, Advocate for the applicant.
Shri S.M. Ghodeswar, APP for State.
Shri Nikhil Lapalikar, Advocate for Assist to Prosecutor.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 05, 2023.

Heard.

2. By this application, the applicant is apprehending arrest at the hands of police as Crime No.365/2023 is registered against him for the offence punishable under Section 448, 457 and 380 of the Indian Penal Code at police station Rajapeth, Amravati.

3. The accusation against the present applicant is that the first informant is the tenant. The civil litigation is pending between them before the Civil Court, Amravati and injunction is granted in favour of the first informant.

4. As per the allegations in the FIR, the applicant has demolished the building during the operation of injunction order of the Court and has stolen some articles from the shop worth of Rs.40,000/-. On the basis of said report, crime is registered.

5. As per the contention of the applicant that as far as the breach of injunction order is concerned, appropriate application is already filed by the informant for taking action for breach of injunction. As far as the stolen property is concerned no details are given by the informant in the FIR. The allegations are baseless.

6. The physical custody of the present applicant is not at all required and hence ad-interim protection granted to the present applicant be confirmed.

7. Said application is strongly opposed by the State as well as the informant on the ground that the physical custody of the present applicant is required as the stolen articles are to be recovered from the present applicant and prays for rejection of the application.

8. Heard learned Counsel for the appellant and learned Additional Public Prosecutor for the State and learned Counsel for the original informant.

9. Learned Counsel for the appellant submitted that considering the allegation as it is, the physical custody of the present applicant is not required as there are no details of the stolen property. In fact, the allegations are baseless.

10. Considering the same, the applicant was protected by granting ad-interim anticipatory bail. During

investigation also nothing is revealed to show that the applicant has committed the offence of theft. Therefore, his physical custody is not required.

11. Learned Additional Public Prosecutor and learned Counsel for the informant reiterated the contention and prays for rejection of the bail.

12. Perused the investigation papers and the recitals of the FIR. The general allegation is made by the informant that his articles which were lying in the shop were stolen by the present applicant. In fact, he has not given any details or list of the articles.

13. Considering the allegations and considering that civil litigation is pending before the Civil Court for breach of injunction order. The appropriate proceeding is already initiated by the informant. The physical custody of the present applicant is not at all required. Therefore, interim protection granted to the present applicant deserves to be confirmed. Hence, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Nilesh Anil Tardeja in the event of arrest in Crime No.365/2023 registered at police station Rajapeth, Amravati for the offence punishable under Section 448, 457 and 380 of the Indian Penal Code, be released on anticipatory bail on

executing P.R. Bond in the sum of 15,000/- (Rs. Fifteen 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*