



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

CRIMINAL APPLICATION (ABA) NO.357 OF 2023

Ms Heena wd/o Deepak Kurani

Vs.

State of Maharashtra, Through Police Station, Ranapratap Nagar, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Anil S. Mardikar, Senior Counsel a/b Mr. R. V. Malviya, Advocate for applicant.
Ms. Sneha Dhote, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 21/12/2023

1. By this application, the applicant is seeking anticipatory bail in the event of her arrest in connection with crime No.63/2023 for the offence punishable under Section 406, 420 read with Section 34 of the Indian Penal Code and Section 3 of MPID Act.

2. The accusation against the present applicant is that the police have registered the crime on the basis of report lodged by one Harish Sudhakar Rao Golhar alleging that he was acquainted with the husband of the present applicant namely Deepak Kurani and having friendly relationship with him. In the month of August 2018, the applicant and her husband meet to the informant in his house and disclosed that they are running financial establishment by investing amount in share market and real estate. They also disclosed that in case of investing amount the informant would get returns and insisted to

invest the amount. It is further alleged that, the present applicant and her husband were aware about the fact that the mother of the informant has sold out her land and the informant is having handsome amount in his hand. Considering the friendly relationship, the informant has invested the amount but he has not received any benefit. The husband of the applicant avoided to repay the same. In the month of May 2022 the cheque was issued to repay the invested amount which was dishonoured with endorsement 'insufficient funds'. Thereafter, the informant met to the applicant and her son but they declined to repay the amount therefore, he approached to the Police Station and lodged the report.

3. Learned Senior Counsel Mr. Mardikar for the applicant submitted that even considering the allegation as it is, the custody of the present applicant is not required. The alleged transaction appears to be in between husband of the present applicant and the informant. As far as the allegation against the present applicant is concerned, which are only to the extent of inducement. In view of that, the custodial interrogation of the present applicant is not required and prays for confirmation of the ad-interim protection granted in favour of the present applicant.

4. Learned APP strongly opposed the application on the ground that there is a *prima facie* material to show that it was the present applicant who insisted the

informant to invest the amount, obtained the amount and not paid back. The cheque issued is also dishonoured and returned with endorsement. Considering the same, the custodial interrogation of the present applicant is required and prays for rejection of the application.

5. Having heard the learned Senior Counsel for the applicant and learned APP for the State. Perused the recitals of the FIR. As far as the recitals of the FIR is concerned, it only alleges that it was the present applicant who insisted the informant and the amount was handed over to the husband of the present applicant. Now, he is no more and the cheque was issued by the husband of the present applicant, it was dishonoured. Considering the allegation against the present applicant admittedly, physically custody is not required. In view of the observation of the Hon'ble Apex Court in **Satender Kumar Antil Vs. Central Bureau of Investigation and another** reported in (2022) 10 SCC 51 wherein it is held that even in a cognizable offence arrest of the accused is not mandatory. In view of the said directions also as the offences punishable with imprisonment for a term which extend to seven years and shall also be liable for the fine. The arrest of the present applicant is not required. Considering the same, the interim protection granted to the present applicant deserves to be confirmed. Accordingly, I proceed to pass following order.

(i) In the event of the arrest, applicant **Ms Heena wd/o Deepak Kurani** is hereby released on anticipatory bail on executing PR bond of in the sum of Rs.25,000/- with one solvent surety in the like amount in respect of Crime No.63/2023 for the offence punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code and Section 3 of the MPID Act.

(ii) The applicant shall attend Police Station as and when required for the investigation purpose.

(iii) The applicant shall furnish her mobile/ phone number, along with his address with address proof.

(iv) The applicant shall not induce, threat or promise any witnesses who are connected with the alleged crime.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)