

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

CRIMINAL APPLICATION (ABA) NO.360 OF 2023

Ajay S/o Ramdas Gaikwad and others Vs. State of Maharashtra

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

Court's or Judge's orders.

Shri A.M. Gedam, Advocate for applicants.
Shri S.M. Ghodeswar, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : JULY 13, 2023.

The present application is filed for grant of anticipatory bail in the event of arrest in connection with Crime No.333/2023 registered at Police Station, Hudkeshwar, Nagpur for the offences punishable under Sections 419 and 420 read with Section 34 of the Indian Penal Code, 1860.

2. The crime is registered on the basis of report lodged by Sahebrao Pralhadrao Lute on an allegation that one Ajay Ramdas Gaikwad alongwith his wife residing in his neighbourhood, in October, 2020, the said Ajay, his wife and their 3rd friend i.e. present applicants, disclosed to him that they are the brokers of Verma Trading Company and the said company is dealing in grocery material. The main broker was Kirti Ashok Shirpurkar. The said business is to be conducted online. Accordingly, he transferred the amount of ₹14,00,000/- in the account of said Ajay and his wife Seema and an amount of ₹5,50,000/- has deposited in the account

Kirti Ashok Shirpurkar. Thereafter, the said Ajay has deposited ₹35,000/- deposited in the account of informant and thereafter the applicant no.1 is absconding.

3. As per the contention of the applicant, with the false allegations this report is lodged, infact, he is not at all concerned with Kirti Ashok Shirpurkar or Verma Trading Company. He is falsely implicated in the alleged offence. Now investigation is practically completed. The custody of the applicants is not required and hence interim protection granted to them be confirmed.

4. The said application is strongly opposed by the State on the ground that huge amount is invested by the present applicants on the basis of promise by the present applicants. The amount is to be recovered and hence the application deserves to be rejected. It is further contention of the State that the bank statement is collected, which disclosed that the amount is transferred from the informant and other victims to the accused persons. The bank statement of the accused persons discloses that the balance is nil as such they have withdrawn the amount and fled away and prayed for rejection of the bail.

5. Heard learned counsel for the applicant and learned APP for the State. They reiterated the contentions as raised in the reply and in the application.

6. Admittedly, the alleged offence is not punishable with imprisonment for more than seven years. In view of the judgment of Hon'ble Apex Court in ***Satender Kumar Antil Vs. Central Bureau of Investigation and another;*** reported in ***(2022) 10 SCC 51***, wherein it is observed that punishment is provided upto seven years the police officer shall consider whether arrest is necessary or not. It is further observed that even for a cognizable offense, wherein the punishment is provided upto seven years, the arrest of the accused is not mandatory. From the recitals of the FIR it is apparent that dispute between the parties is of civil nature. Immediate custody of the applicants is not required. The applicants have already cooperated with the investigating agency by attending the police station. Considering the same, the anticipatory bail granted to the applicants by interim orders deserves to be confirmed. Hence, I proceed to pass the following order:

(i) The interim protection granted on 09.06.2023 is hereby confirmed on they executing PR bond in the sum of ₹25,000/- each with one solvent surety of like amount.

(ii) The applicants shall attend Police Station, Hudkeshwar, Nagpur as and when called by the investigating officer and shall cooperate in the investigation.

(iii) The applicants shall furnish their cell phone numbers and addresses with address proof.

(iv) The applicants shall not tamper prosecution evidence or shall not induce, threaten or pressurize any witnesses, who are connected with the alleged crime.

With this, the criminal application is disposed of.

JUDGE

Wagh