

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

CRIMINAL APPLICATION (ABA) NO.361 OF 2023
(Sandip Ramchandra Gandhare Vs. The 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 S.V. Sirpurkar, Advocate a/w Shri A.R. Wagh, Advocate for the
applicant.
Shri I.J. Damle, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 11, 2023.

Heard.

2. By this application, the applicant is seeking anticipatory bail in the event of arrest in connection with Crime No.385/2023 registered at police station Warora, District Chandrapur for the offence punishable under Sections 417, 420, 467, 468 and 120-B 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 launched by Vinit Prabhakar Juare, Branch Manager of ESAF Small Finance Bank, Branch Warora. As per the allegation in the FIR, one Bhushan Zile took gold loan from the bank. He again approached to the bank for gold loan but the bank has informed him that he can obtain the gold loan only in five cases, thereafter he brought one Naresh Dhangawali to obtain loan in his name by providing some gold. After the said loan was disbursed to

said Naresh, the co-accused Bhushan Zile has withdrawn some amount in cash from said Naresh's account and some he got transferred to his own account. Thereafter he again brought the present applicant for obtaining the gold loan. After disbursement of the gold loan said Bhushan Zile has obtained some amount and some amount was transferred to his own account. Thus, it is alleged that the present applicant by sharing the common intention with the co-accused approached to the bank and obtained the gold loan. The gold which was provided for obtaining the loan was also not genuine and duped the bank. On the basis of said report, police have registered the crime against the present applicant.

4. The contention of the applicant is that he is also the victim at the hands of the co-accused Bhushan Zile. In fact, he is not the beneficiary of the said loan amount. The recitals of the FIR itself shows that it was the Bhushan Zile who has obtained the loan and the amount was disbursed to the present applicant but it was the Bhushan Zile who has withdrawn the some amount and some amount was transferred to his account.

5. Thus, considering the recitals of the FIR no offence is made out against the present applicant. There is nothing on record to show that the present applicant was having knowledge regarding ill-intention of the Bhushan Zile. Considering the recitals of the FIR itself shows that the applicant is entitled for the protection by granting

anticipatory bail.

6. Said application is strongly opposed by the State on the ground that there is a *prima facie* material against the present applicant to show that he was having knowledge about the intention of the co-accused Bhushan Zile. He came along with Bhushan Zile and produced the gold which was not genuine, obtained the loan amount. He has also produced his 7/12 extract thus, he has assisted the said Bhushan Zile in committing the crime. Thus, his custodial interrogation is required.

7. Learned Counsel for the informant also resisted the application on the same ground and submitted that the present applicant is well aware about the ill-intention of the co-accused and in furtherance of their common intention they have produced the gold and obtained the loan amount. The custodial interrogation of the applicant is required and prays for rejection of the application.

8. Heard learned Counsel for the applicant. He submitted on the basis of the recitals of the FIR that the recitals of the FIR itself shows that the applicant has not received any amount towards said loan amount. In fact, present applicant has made a complaint against the co-accused. His custodial interrogation is not required as nothing is to be recovered from him as he is not the beneficiary of the said amount. Hence, he be protected by granting anticipatory bail.

9. Learned Additional Public Prosecutor and learned Counsel for the informant reiterated the contention and resisted the application on the ground that his custodial interrogation is required.

10. Having heard both the sides and on perusal of the recitals of the FIR it reveals that the report is lodged by the Branch Manager. As per the allegation of the Branch Manager it was the Bhushan Zile who has brought the present applicant in the bank and introduced the present applicant with the Manager of the Bank. It further reveals from the recitals of the FIR that it was the Bhushan Zile who has produced the said gold and got the loan sanctioned. After sanction of the loan it was the Bhushan Zile who has obtained cash amount and some amount he has transferred in his own account. Except the statement of the Branch Manager there is nothing on record reveals from the investigation to show that the present applicant was aware about the ill-intention of said Bhushan Zile.

11. Considering the fact that present applicant is also the victim at the hand of said Bhushan Zile and he is not the beneficiary of that amount. The application of the applicant for seeking anticipatory bail deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Sandip Ramchandra

Gandhare in the event of arrest in Crime No.385/2023 registered at police station Warora, District Chandrapur for the offence punishable under Sections 417, 420, 467, 468 and 120-B of the Indian Penal Code, be released on anticipatory bail on executing P.R. Bond in the sum of 25,000/- (Rs. Twenty five thousand) with one surety in the like amount.

(iii) The applicant shall attend the concerned Police Station once in a week i.e. on every Monday between 10.00 a.m. to 1.00 p.m. till further orders.

(iv) The applicant shall furnish his Cell phone number and address along with address proof before the Investigating Officer.

(v) 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.)