



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

CRIMINAL APPLICATION (ABA) NO. 8 OF 2024

Pandurang Mahadeo Isapure V/s 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

Mr. D.M. Ailani, counsel for the applicant.

Mrs. M.A.Barbde, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 23/02/2024.

1. Apprehending arrest at the hands of Police in connection with Crime No. 457/2023 registered with Police Station, Dhantoli, District Nagpur for the offence punishable under Sections 406, 420, 506 and 120-B read with Section 34 of the Indian Penal Code, 1860. The applicant approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of report lodged by Swati Kishanchand Ramnai who alleged that she got acquaintance with one Dipankar Sarkar and Amjad Khan who induced her to invest the amount in the Trade Profit Fund Scheme. Initially, she was reluctant to invest the amount but they assured her that she would get good returns on the invested amount therefore, on 27/07/2023 she went to the office of Dipankar Sarkar and Amjad Khan wherein the present applicant was present. She further alleged that she had invested the amount of Rs. One Crore along with her friend, however, she or her friend have not received any

returns and the principal amount is also not received by her, and they were duped by the present applicant and other co-accused.

3. Learned counsel for the applicant submitted that as far as the present applicant is concerned, except the allegations that he was present in the office of co-accused. There is no allegation that either he received the amount, accepted the amount, or induced the complainant to invest the amount. The amount is also handed over to the co-accused. Thus, custodial interrogation of the present applicant is not required. After being released on ad-interim anticipatory bail, he has cooperated with the investigating agency, and his custodial interrogation is not required.

4. He also placed on record the decision of ***Satender Kumar Antil V/s Central Bureau of Investigation and another, reported in 2022 LiveLaw (SC) 577*** wherein the Hon'ble Apex Court has held that Section 41 under Chapter V of the Code deals with the arrest of persons. Even for a cognizable offence, an arrest is not mandatory as can be seen from the mandate of this provision. He submitted that in view of the observation of the Hon'ble Apex Court if the officer is satisfied that a person has committed a cognizable offence, punishable with imprisonment for a term which may be less than seven years, or which may extend to the said period, with or without fine, an arrest could only follow when he is satisfied that there is a reason to believe or suspect, that the said person has committed an offence. He submitted that no notice under

Section 41A is issued to the present applicant, the present has cooperated with the investigating agency.

5. Per contra, learned APP strongly opposed the application on the ground that the offence is of a serious nature, in the nature of the economic offence. The custodial interrogation of the present applicant is required and therefore, the prayer of the present applicant for grant of anticipatory bail deserves to be rejected.

6. After hearing learned counsel for the applicant and learned APP for the State, perused the recitals of the FIR and the investigation papers, from which it reveals that the only allegation against the present applicant that he was present in the office when the informant approached for investing the amount. Except for this statement, there is no other allegation that either he induced the informant or accepted the amount. In view that, the custodial interrogation of the present applicant is not required and therefore, interim protection granted to the present applicant deserves to be confirmed. Accordingly, I proceed to pass the following order:

- a) The criminal application is **allowed**.
- b) In the event of his arrest in connection with Crime No.457/2023 registered with Police Station, Dhantoli, District Nagpur for the offence punishable under Sections 406, 420, 506 and 120-B read with Section 34 of the Indian Penal Code, the applicant **Pandurang Mahadeo Isapure** shall be released on

anticipatory bail on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

- c) The applicant shall attend Police Station concerned Police Station as and when required.
- d) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]