



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

CRIMINAL APPLICATION (ABA) NO.74 OF 2024

(Mangesh s/o Vitthalrao Chore 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

Mr. R.D. Dharmadhikari, Advocate for the applicant.
Mr. A.R. Chutke, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 21, 2024

Apprehending the arrest at the hands of police in connection with Crime No.4/2024 registered at police station Sawangi Meghe, District Wardha under Section 420 of the Indian Penal Code, the applicant approached to this Court for grant of pre-arrest bail.

2. Learned Counsel for the applicant submitted that the accusation against the present applicant is on the basis of report lodged by Suresh Bappa Chavhan alleging that he met the present applicant through his brother and entered into an agreement to purchase one plot admeasuring 3500 sq.ft. The complainant has paid sum of the consideration amount. However, the plot was not sold out to him and the money was also not paid. Thus, complainant was duped by the present applicant. He submitted that as far as allegations are concerned which is of a civil nature, it is only a breach of an agreement. No cognizable offence is made out against the present applicant. The custodial interrogation of the applicant is

not required, therefore, the ad-interim protection granted to him deserves to be confirmed.

3. Learned Additional Public Prosecutor strongly opposed the application on the ground that there are several offences registered against the present applicant which are of similar nature. The crime chart which is on record sufficiently shows the criminal antecedents against him. The custodial interrogation of the present applicant is required as the applicant entered into an agreement but has not executed the sale-deed. The amount of consideration is yet to be recovered. In view of that, application deserves to be rejected.

4. Having heard learned counsel for the parties. Perused the recitals of the FIR. Apparently, it seems that it is an agreement which was breached by the present applicant. Admittedly, there are criminal antecedents against the present applicant wherein similar nature of the offences are registered. It is now well settled that merely there are criminal antecedents against the present applicant are not sufficient to reject his prayer for grant of anticipatory bail. The Hon'ble Apex Court in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation, [(2022) 10 SCC 51]*** wherein it is held that even for a cognizable offence, an arrest is not mandatory as can be seen from the mandate of Section 41 of the Code of Criminal Procedure. 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 seven years 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 offense, and there is a necessity for an arrest. Such necessity is drawn to prevent the committing of any further offense, for a proper investigation, and to prevent him/her from either disappearing or tampering with the evidence. He/she can also be arrested to prevent such person from making any inducement, threat, or promise to any person according to the facts, so as to dissuade him from disclosing said facts either to the court or to the police officer.

5. Thus, in the present case, the offence alleged against the present applicant is under Section 420 of the IPC for which the punishment provided is upto 7 years. There is no compliance by the Investigating Officer as far as the notice under Section 41A of the Cr.P.C. is concerned. Considering the nature of the offence and the custodial interrogation of the present applicant is not required, however, taking into consideration the criminal antecedents, the application for grant of anticipatory bail deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order :

(i) The application is allowed.

(ii) The applicant - Mangesh s/o Vitthalrao Chore, in the event of arrest in connection

with Crime No.4/2024 registered at police station Sawangi Meghe, District Wardha under Section 420 of the Indian Penal Code, be released on anticipatory bail on executing PR bond of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned Police Station once in a week i.e on every Sunday between 10.00 a.m. and 1.00 p.m. till filing of the charge-sheet.

(iv) The applicant shall not induce, threat or promise to any witnesses, who are acquainted with the facts of the present case.

(v) The applicant shall furnish his cell phone number and address with address proof, before the Investigating Officer.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*