



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

CRIMINAL APPLICATION (ABA) NO.145 OF 2024

Manoj s/o Jaisingh Hiranwar

Vs.

State of Maharashtra, Through Police Station Officer, Ambazari, Nagpur

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

Court's or Judge's orders

Mr. P. R. Abhyankar, Advocate for applicant.

Ms. Shamshi Haider, APP for respondent/State.

Mr. P. V. Dandwate, Advocate for assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 01/04/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.799/2023 registered with Police Station Ambazari, Nagpur for the offence punishable under Sections 380, 427, 448 and 451 of the Indian Penal Code, the present applicant approached this Court for grant of pre-arrest bail.

2. Learned Counsel for the applicant submitted that it is the dispute between the tenant and the landlord. The present applicant is the landlord of the suit premises plot No.223 at Jaisingh Bhawan, North Bazar Road, Gokulpeth, Nagpur. The informant has already handed over the possession of the said premises at the end of October, 2022. He invited my attention towards the electricity bills and submitted that this electricity bill will substantiate the

contention as the bills for the period 06.10.2022 to 06.11.2022 wherein the used unit is shown as zero. He further invited my attention towards the another electricity bill for the period 06.11.2022 to 06.12.2022. He submitted that bill also shows the used unit is zero. Thus, he submitted that this documents sufficiently shows that the premises was vacant and no electricity was used in the said premises.

3. He further invited my attention towards the documents filed on record to show that the informant has filed the Civil Suit bearing No.104/2023 including the interim application for grant of *status quo*. In the said application, the Court directed the present applicant to file an affidavit on record. In the said affidavit also, the applicant has mentioned that suit shop is empty and it did not contain any furniture or any other material of the plaintiff even on 19.01.2023 when it is alleged that the applicant has put lock on the shop. Since prior to 19.01.2023 the suit shop contain the material owned by the applicant himself. As applicant is running his office by name Rudra Construction and denied the allegation. He invited the attention towards the written statement filed in the suit and submitted that wherein also he has narrated the same set of facts. He submitted that out of the dispute between the landlord and the tenant, this false complaint is lodged after thought,

after long gap. He submitted that considering the same, the custodial interrogation of the present applicant is not required, the applicant has cooperated with the investigating agency, after he is protected by granting ad-interim protection.

4. Learned APP strongly opposed the application on the ground that the crime is registered under Section 380 of the Indian Penal Code therefore, the material owned by the complainant is to be recovered and for that purpose the custodial interrogation of the applicant is required. She invited my attention towards the statement of the complainant recorded under Section 164 of the Code of Criminal Procedure, wherein also the informant has reiterated the contention and stated that the material which was kept by him in the shop was stolen by the applicant and therefore, his custodial interrogation is required.

5. The learned Counsel for the complainant has also placed on record the written submissions wherein the major of the dispute is mentioned by him as well as the apprehension was raised that the applicant if released on anticipatory bail, he would take forceful possession illegally of the tenanted premises.

6. It is further submitted by the learned Counsel for the complainant that the complainant is

running the business of books of library and used to sale stationary materials from the said tenanted premises. The accused has stolen the valuable materials and therefore, the recovery of the same is required. In view of that, the application deserves to be rejected.

7. Having heard the learned Counsel for the applicant and the learned APP for the State, perused the investigation papers. From the recitals of the FIR and the various documents i.e. order passed by the Civil Court which shows that civil dispute is pending between the informant and the present applicant. It further appears that the present informant has filed Regular Civil Suit bearing No.104/2023 on 26.04.2023. Subsequently, the affidavit is filed by the present applicant wherein he has stated that premises is in his possession. The electricity bills also shows that in the premises there was no use of any electricity between the period from 06.10.2022 to 06.11.2022 and 06.11.2022 to 06.12.2022. The issue of the lawful possession or illegal possession is a matter of evidence, which can be dealt by the Civil Court. At this stage, it is apparent that the FIR came to be lodged out of the dispute between the landlord and tenant. As far as the custodial interrogation of the present applicant is concerned, which is not required, as the applicant has already cooperated with the investigating agency and attended the Police Station as directed. Whether the material which was

kept in the premises owned by the present applicant or the informant is the matter of investigation and for that investigation, the custodial interrogation of the present applicant is not required. In view of that, the interim protection granted to the present applicant deserves to be confirmed. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.799/2023 registered with Police Station Ambazari, Nagpur for the offence punishable under Sections 380, 427, 448 and 451 of the Indian Penal Code, the applicant **Manoj s/o Jaisingh Hiranwar** 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.
- (iii) The applicant shall attend the concerned Police Station once in a week on Sunday between 10.00 a.m. to 1.00 p.m. till filing of the charge-sheet.
- (iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)