



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

CRIMINAL APPLICATION (ABA) NO.166 OF 2024

(Vivek s/o Arun Maske 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. D.V. Mahajan, Advocate for the applicant.
Mr. M.J. Khan, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 8, 2024.

The application is for grant of anticipatory bail. The applicant is apprehending arrest at the hands of police in connection with Crime No.112/2024 registered with Police Station Tahsil, Nagpur for the offence punishable under Sections 171, 384, 392, 416 and 419 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by Hemraj Morbaji Nandanwar on an allegation that his wife is Housewife and the complainant used to visit Pandhurna by four-wheeler and purchased vegetables and fruits from the agriculturists of different villages and used to sell it at Kalamna Market, Nagpur. In the year 2020, the complainant had purchased one house at Pandhurna (M.P). In the State of Madhya Pradesh there is no ban for selling and purchasing scented tobacco, and therefore, the complainant brought the vegetables and fruits from the State of Madhya Pradesh in his vehicle and also transporting the scented tobacco and the contraband by

keeping below the vegetables. Said fact came to the knowledge of the present applicant and other co-accused and they hatched the conspiracy and the co-accused pretended themselves to be police officers and intercepted the vehicle of the complainant and demanded Rs.4,30,000/- from him. On the basis of said report, police have registered the crime.

3. Learned Counsel for the applicant submitted that as far as present applicant is concerned he was not present at the spot. The vehicle which was used by the co-accused is already seized. The custodial interrogation of the present applicant is not required. The other co-accused is already released on bail. In view of that, present applicant be protected by granting pre-arrest bail.

4. Learned APP strongly opposed the application and pointed out that the present applicant is the person who hatched the conspiracy. The name of the present applicant revealed from the statement of the co-accused. The vehicle which was intercepted by the investigating agency is also owned by the present applicant. The CDR reports are collected during the investigation which shows that there were several calls between the present applicant and the co-accused on 20/02/2024. Thus, sufficient material is there to show the connection of the present applicant with the alleged offence. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers from which it

reveals that on the basis of FIR lodged by the informant the crime is registered wherein it is alleged that he used to brought the contraband articles i.e. scented tobacco from the Madhya Pradesh and this fact came to the knowledge of the present applicant and other co-accused. They hatched the conspiracy and the other co-accused pretended themselves as a police persons and obtained the entire contraband articles from his vehicle and also demanded the extortion amount of Rs.4,30,000/-. Out of the said amount, the applicant has received an amount of Rs.1,25,000/-. The CDR reports collected by the investigating agency also shows that there were frequent calls between the present applicant and other co-accused on 20/02/2024. Considering the *prima facie* case made out against the present applicant, the application for grant of anticipatory bail deserves to be rejected.

6. It is well settled that considerations for grant of pre-arrest bail and bail under Section 439 of Cr.PC. are different.

7. As far as the anticipatory bail application is concerned, the *prima facie* case made out against the present applicant and there is no reason to use the discretion in favour of the present applicant. In view of that, the application deserves to be rejected.

8. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)