



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

CRIMINAL APPLICATION (ABA) NO.204 OF 2024

(Pankaj Eknath Tichkule 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. N.B. Bargat, Advocate for the applicant.
Ms T.H. Udeshi, APP for the State.
Mr. P.L. Sagdeo, Advocate for Assist to Prosecutor.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 12, 2024.

Heard.

2. By this application, the applicant is seeking pre-arrest bail. The applicant is apprehending arrest at the hands of police in connection with Crime No.106/2024, registered with Police Station Wadi, District Nagpur for the offence punishable under Sections 380, 448, 454 and 457 of the Indian Penal Code, the applicant approached to this Court for grant of pre-arrest bail.

3. The accusation against the present applicant is on the basis of report lodged by informant Ameya Surendra Phate on an allegation that he is running a firm, namely, Darma Secure Private Limited in Plot Nos.68 and 69 of Nagarik Gruhanirman Sahakari Sanstha. It is further alleged that he entered into an agreement with the present applicant to obtain premises on rent. Accordingly, rent agreement was prepared and the possession was handed over to him. He has also placed his cosmetic manufacturing machinery in the said premises in

September to October 2017. It is further alleged that due to some difficulties he suffered a loss in his business, and therefore, he could pay the rent. During 05/06/2023 to 09/06/2023 he has stored some material in the office but subsequently he came to know that said materials are stolen by the present applicant by opening the lock. On the basis of the said report, police have registered the crime against the present applicant.

4. Learned counsel for the applicant submitted that there was a lease and licence agreement between the present applicant and the complainant. As per the agreement, the complainant failed to pay the rent, therefore, notice is issued by him to the complainant to settle the amount of rent but he has not responded for the same. He has filed the suit for recovery of the possession as well as for the recovery of the rent amount which is still pending. He submitted that there is no material to show that the complainant has kept some machinery in the said premises, in fact, as the complainant has failed to pay the rent amount therefore, he handed over to possession to the another person. Considering the nature of the dispute which is of a civil nature but the complainant has given it color of a criminal dispute, and therefore, the applicant approached to this Court for grant of pre-arrest bail. In fact, custodial interrogation of the present applicant is not required. He has already cooperated with the investigating agency after he is released on ad-interim anticipatory bail.

5. Learned Additional Public Prosecutor for the non-applicant strongly opposed the said application on the ground that the investigation papers show that the complainant has kept some machineries there. The complainant has produced the list of the machineries as well as some goods to substantiate the contention. Said machineries was unauthorisedly and illegally moved by the present applicant and present applicant has committed the theft of the said articles. Said articles are to be recovered from the present applicant, and therefore, the custodial interrogation of the present applicant is required. Therefore, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the recitals of the F.I.R. as well as the investigation papers. During investigation, the Investigating Officer has recorded the relevant statements of the witnesses which shows that the witnesses never seen either board of the present complainant's firm at the premises or they have also not seen anybody moving the articles from that place to any other place. The statement of the employee of the complainant is also recorded, she also not substantiates the contention of the complainant. It is further apparent from the record that the rent agreement was entered into by the complainant and the present applicant. There was dispute regarding the recovery of the amount of rent, and therefore, notice was issued, civil suit is filed which is pending. Thus, it is

apparent that the dispute between the complainant and the present applicant is of a civil nature. As far as the custodial interrogation is concerned which is not required. In view of that, the ad-interim protection granted to the present applicant deserves to be confirmed.

7. Hence, the application is allowed and the interim protection granted to the applicant vide order dated 22/03/2024 is hereby confirmed on the same terms and conditions.

8. The application is disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*