



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

CRIMINAL APPLICATION (ABA) NO.270 OF 2024

Amol s/o Uttamrao Patil

Vs.

State of Maharashtra, Through Police Station Officer, Hudkeshwar, Nagpur
City, District Nagpur

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

Court's or Judge's orders

Mr. V. D. Ruparelia, Advocate for applicant.

Mr. M. J. Khan, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 23/07/2024

1. Apprehending the arrest at the hands of the Police in connection with Crime No.125/2024 registered with Police Station Hudkeshwar, District Nagpur for the offences punishable under Sections 406 and 420 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 grandmother of the victim namely Vimal Sudhakar Hiwase alleging that the co-accused Giridhar s/o Pandharinath Ambarte who regularly used to visit her house and induced her to pay an amount to secure the job of her grandson in MHADA as Junior Engineer. On the say of said Giridhar, the complainant had asked the grandson to enroll for the examination. Thereafter, the said co-accused Giridhar had insisted the complainant by taking the name of the present

applicant by representing him as Class – I Officer in Health Department and extracted the total amount of Rs. 21,50,000/-.

3. Learned Counsel for the applicant submitted that as far as the present applicant is concerned, the false allegation is made against him. He is not a Class-I employee but he is a Class-III employee and no amount is received by him, neither the amount was transferred in his account. He submitted that he is suffering from various ailments and completely unfit person. As far as his custodial interrogation is concerned, which is not required. In view of that, interim protection granted to him deserves to be confirmed.

4. In support of his contention he placed reliance on **Satender Kumar Antil Versus Central Bureau of Investigation & Anr.** reported in **2022 LiveLaw (SC) 577** and **Kawaljit Singh Walia Vs. The State of Maharashtra and another** reported in **2022 (1) DCR 475**.

5. Learned APP strongly opposed the said application and submitted that the applicant is the instrument in paying the said amount to the co-accused. He submitted that the applicant was working at Pune and had acquainted with the co-accused Kailas Jadhav. Moreover, the wife of the Giridhar was also working in the Health Department and for the transfer of his wife Giridhar has visited at

Pune and got acquaintance with the applicant. At that time the applicant has expressed the said Giridhar Ambarte to look for a suitable candidate for providing employment and thereafter, the co-accused Giridhar Ambarte contacted the complainant and thereafter, the entire incident has happened. He also invited my attention towards various statements of the witnesses and submitted that by taking disadvantage of the unemployment of the grandson of the complainant, the amount was extracted. The cheques which are issued by the co-accused Kailas Jadhav are also dishonoured and the complainant was duped. He submitted that considering the nature of the allegation his custodial interrogation is required. In view of that, the application deserves to be rejected.

6. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigation papers from which it reveals that the co-accused Giridhar approached to the complainant and induced her to pay the amount by informing that he is acquainted with the present applicant who is Class-I Officer. Thus, the present applicant was projected as a Class-I Officer and there was communication between the present applicant and co-accused Kailas Jadhav regarding the said transaction. It further reveals from the statements of the various witnesses, the active involvement of the present applicant in the alleged offence. Thus,

considering that by taking disadvantage of the unemployment of the grandson of the informant the money was extracted from her. The said amount was paid to the co-accused Kailas Jadhav and said Kailas Jadhav has issued the cheques which are also dishonoured. Thus, intention of the present applicant as well as the other co-accused is cleared. As far as the reliance on the judgment of **Satender Kumar Antil** (supra) it observes that in view of 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. 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. The said satisfaction is canvassed by the learned APP.

7. In view of that, the *prima facie* case is made out against the present applicant and therefore, the application deserves to be rejected.

8. Accordingly, I Proceed to pass following order:

The application is rejected.

(URMILA JOSHI-PHALKE, J.)