



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

**CRIMINAL APPLICATION (ABA) NO.384 OF 2024**  
(Santosh s/o Bharat Hariyani Vs. State of Maharashtra)

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order  
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Court's or Judge's Order

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Mr. S.P. Sonwane, Advocate for the applicant.  
Mr. A.G. Mate, APP for the State.  
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**CORAM:- URMILA JOSHI-PHALKE, J.**  
**DATED :- JULY 1, 2024.**

Heard.

2. By this application, the applicant is seeking pre-arrest bail in connection with Crime No.336/2024 registered with Police Station Lakadganj, Nagpur, District Nagpur for the offences punishable under Sections 386 read with Section 34 of the Indian Penal Code.

3. The applicant is apprehending arrest at the hands of police in connection with the above said crime as the offences are registered on the basis of report lodged by Ashutosh Mahesh Lekwani. The complainant is the brother-in-law of the present applicant. As per the allegation, prior to eight months he was involved in a cricket betting for which he used to place bets with one Yuvraj Hariyani and the present applicant. He had lost around Rs.35,50,000/- and the applicant has threatened him and also obtained jewellery from his locker approximately 25.5 tolas gold amount to Rs.15,50,000/-

and handed over to the co-accused and the present applicant. He submitted that as far as the allegations are concerned, the complainant has concealed the real facts and lodged false report. He pointed out from the WhatsApp communication that the gold ornaments are handed over by the complainant to the present applicant either to mortgage it or to sell it. As far as the allegations regarding the applicant has obtained the said gold ornaments are concerned are falsified by the WhatsApp communication. He further submitted that the gold ornaments are already recovered by the investigating agency, therefore, custodial interrogation of the present applicant is not required. As far as the amount of Rs.17,00,000/- which is allegedly obtained by the present applicant is concerned, there is no material to show that the complainant was having that amount along with him and he has handed over the same. He submitted that considering the gold ornaments are handed over by the complainant himself which are now recovered, the custodial interrogation of the present applicant is not required, and therefore, he be protected by granting anticipatory bail.

4. Learned APP strongly opposed the application and submitted that not only the gold ornaments but the amount of Rs.17,00,000/- is also obtained by the present applicant and the other co-accused. In view of that, his custodial interrogation is required, and therefore, 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 gold ornaments are already recovered from the co-accused by the investigating agency. As far as the allegation of Rs.17,00,000/- is concerned, no investigation is carried out to show that the complainant was having so much amount along with him and he handed over the same to the present applicant. Considering the fact that the gold ornaments are already recovered and from the WhatsApp chat it reveals that it was the complainant who has handed over the said gold to the present applicant, his custodial interrogation is not required. It is well settled that merely because the investigating agency requires the custody is not sufficient to reject the anticipatory bail application of the applicant. Considering the entire material, at this stage no *prima facie* case is made out to show that the custodial interrogation of the present applicant is required, and therefore, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) In the event of arrest, the applicant - Santosh s/o Bharat Hariyani in connection with Crime No.336/2024 registered with Police Station Lakadganj, Nagpur, District Nagpur for the offences punishable under Sections 386 read with Section 34 of the

Indian Penal Code, be released on anticipatory bail on executing a 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 as and when required for the investigation purpose and shall cooperate with the investigating agency.

(iv) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

6. The application is disposed of.

**(URMILA JOSHI-PHALKE, J.)**

*\*Divya*