



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

CRIMINAL APPLICATION (ABA) NO.393 OF 2023

(Sanjay Namdevrao Dhevele 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. P. Rewatkar, Advocate h/f Mr. A.A. Mirza, Advocate for the applicant.
Mr. A.B. Badar, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- APRIL 3, 2024.

The application is for grant of anticipatory bail. The applicant is apprehending arrest at the hands of police in connection with Crime No.227/2023 registered with Police Station Morshi, District Amravati for the offence punishable under Sections 409, 420, 465, 471 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant on the basis of report lodged by one Vinod Shankarrao Masram. As per the allegation, the audit was conducted of Morshi Taluka Sahakari Shetkari Kharedi Vikri Sanstha Maryadit, Morshi (hereinafter referred to as 'the Cooperative society' for short) wherein it revealed that the amount of Rs.5,56,906/- is due against the present applicant. Demand notices are issued to the applicant but he has failed and not deposited the amount. It is further alleged that by misusing the power of Director, he had received the agricultural product and misappropriated the

same. On the basis of which the crime under Section 409, 420, 465, 471 read with Section 34 of the IPC is registered. Learned Counsel for the applicant submitted that the only allegation against the present applicant is that he has not deposited the amount which is due from him. As far as the allegation of the forgery of the document, during investigation it revealed that the document is not forged one but it is a genuine document and the amount of Rs.90,000/- he has already paid and shown his bonafides. He further submitted that the said Cooperative society has already initiated the proceeding to recover the amount, therefore, the applicant cannot be sent behind bar to recover the said amount. He further submitted that, now the applicant is moving the proposal for one time settlement with the said Cooperative society. Considering the same, the custodial interrogation of the present applicant is not required and he be protected by confirming the anticipatory bail granted in his favour.

3. Learned Additional Public Prosecutor strongly opposed the application on the ground that in audit report the specific role of the present applicant is made out by misusing his position, he has misappropriated the agricultural products and thereby caused loss to the said Cooperative society. His custodial interrogation is required. In view of that, the application deserves to be rejected.

4. I have heard learned counsel for both the parties. Perused the investigation papers. There is no

dispute as to the fact that during the audit report, amount of Rs.5,56,000/- shown to be duped against the present applicant. It also appears from the Pursis filed by the learned Counsel for the applicant on record that he has already deposited the amount of Rs.90,000/-. As far as the custodial interrogation is concerned, the only contention of the learned APP is that the amount is to be recovered. Now, the Cooperative society has already initiated the steps for recovery of the said amount. Thus, the custodial interrogation in this case is not required. The contention of the learned APP that custodial interrogation is required even if taking into consideration admittedly the custodial interrogation is one of the effective mode of investigation into the crime. It is equally true that just because custodial interrogation is not required is not sufficient to release the accused on anticipatory bail if the offences are of a serious nature. However, a mere assertion on the part of the State that the custodial interrogation is required is not sufficient to reject the application of the applicant. The State has to show additional more than *prima facie* to show that the custodial interrogation is required for the effective investigation. Considering that the State has only required the custodial interrogation for the recovery of the amount and considering the bonafide shown by the applicant, the ad-interim protection granted to the present applicant deserves to be confirmed. Hence, the application deserves to be allowed.

5. The application is allowed. The interim protection granted to the applicant vide order dated 22/06/2023 is hereby confirmed on the same terms and conditions.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*