



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

CRIMINAL APPLICATION (ABA) NO.557 OF 2024
(Arpal Dadarao Sonone 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. S.K. Wankhade, Advocate for the applicant.
Mrs. M.A. Barabde, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 21, 2024

Apprehending the arrest at the hands of police in connection with Crime No.158/2023 registered with Police Station Buldhana, District Buldhana for the offence punishable under Sections 420 read with Section 34 of the Indian Penal Code, 1860, the applicant approached to this Court for grant of pre-arrest bail.

2. The applicant is apprehending arrest at the hands of police as one Sangeeta Vasanta Ekade has lodged the report alleging that she is a Vegetable Vendor and doing her work along with her son. The present applicant and her husband visited their shop and enquired with her son regarding his education. On disclosing that her son has completed B.Sc. it was informed that they can help him to provide a job in a Nabard bank. Thereafter on 02/08/2021 the applicant and her husband visited the house of the informant and demanded Rs.5.00 lakhs for providing the job. Accordingly, the amount was transferred to their accounts and thereafter the job was

not provided and the complainant was duped. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that applicant is serving as a Teacher and if she is arrested her entire career would ruin. He further submitted that as far as the inducement or promise by the present applicant is concerned there is no specific allegation. Whatever done by her husband and the amount was transferred to her account, and therefore, she is implicated as an accused . He submitted that custodial interrogation of the present applicant is not required. In view of that, she be protected by granting anticipatory bail.

4. Learned APP strongly opposed the said application on the ground that a poor Vegetable Vendor was duped by obtaining Rs.5.00 lakhs on the promise of giving the job to her son and thereafter the amount was not returned back. Considering the role of the present applicant, the bail application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the recitals of the FIR as well as the investigation papers from which it reveals that by taking disadvantage of the unemployment of the son of the informant who is a poor Vegetable Vendor the applicant has obtained the amount of Rs.5.00 lakhs out of which Rs.2.50 lakhs was transferred in the account of the present

applicant who accepted the same. Thus, *prima facie* case is made out against the present applicant. Admittedly, the alleged offence is punishable with imprisonment less than 7 years. In view of guidelines issued by the Hon'ble Apex Court in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation, [(2022) 10 SCC 51]*** wherein the Hon'ble Apex Court has observed that 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, and there is a necessity for an arrest. Such necessity is drawn to prevent the committing of any further offence, for a proper investigation, and to prevent him/her from either disappearing or tampering with the evidence. He/she can also be arrested to prevent such person from making any inducement, threat, or promise to any person according to the facts, so as to dissuade him from disclosing said facts either to the court or to the police officer. One more ground on which an arrest may be necessary is when his/her presence is required after arrest for production before the Court and the same cannot be assured.

6. Considering the guidelines issued by the Hon'ble Apex Court the Investigating Officer has to make out the grounds for what purpose the arrest of the present applicant is required and thereafter proceed with the investigation in view of the guidelines.

7. In view of that, the application deserves to be rejected.

8. The Investigating Officer shall issue the notice under Section 41 assigning the reason why the arrest of the present applicant is required and by following the procedure proceed with the investigation.

9. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*