



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

CRIMINAL APPLICATION (ABA) NO.666 OF 2024
(Sheikh Sabir Sheikh Isa Vs. The 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. VR. Deshpande, Advocate for the applicant.
Ms S. Haider, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- OCTOBER 9, 2024

By this application, the applicant is seeking pre-arrest bail in connection with Crime No.5/2020 registered with Police Station, Pimpalgaon Raja, District Buldhana for the offences punishable under Sections 420 and 265 read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of the report lodged by one Digambar Eknath Sabe alleging that the informant is owner of agriculture land and the applicant and the other co-accused have purchased cotton from him and not paid any amount. On the basis of the said report, police have registered the crime against the present applicant.

3. Initially, the applicant has filed an application for grant of anticipatory bail bearing No.433/2020 which came to be rejected. Thereafter, another application was filed by the present applicant which was withdrawn with

liberty to file before the trial Court as charge-sheet is filed. Accordingly, the applicant has preferred an application before the Sessions Court which came to be rejected, and therefore, present application is filed.

4. Learned Counsel for the applicant submitted that earlier application was rejected on 01.12.2020, thereafter also the applicant or other co-accused are not arrested, which sufficiently shows that the custodial interrogation of the present applicant is not required. He further submitted that as far as the offence alleged is under Section 420 of the Indian Penal Code is concerned there is no compliance by issuing the notice either under Section 41 or Section 41-A of Cr.P.C. He further submitted that the nature of the transaction is of a civil nature and for the purpose of recovery of the amount being it is not a recovery proceeding, the custodial interrogation of the present applicant is not required. Considering all these aspects, he be protected by granting anticipatory bail.

5. Learned APP strongly opposed the said application on the ground that when earlier anticipatory bail application is rejected, there is no change in circumstance. In view of that, the application deserves to be rejected. He further submitted that the custodial interrogation of the present applicant is required for the recovery of the amount.

6. I have heard learned Counsel for both the parties. Perused the recitals of the FIR and the other statements from which it reveals that the allegation against the present applicant is that he has *modus operandi* to use the doctored Weighing Scale to weigh cotton. The informant suspected that weighing scale was tampered and thus, he was duped. As far as the custodial interrogation is concerned, it appears from the documents that though his application was rejected by this Court on 01.12.2020 within four years no attempt was made to arrest him or there is no compliance either issuing notice under Section 41 or 41-A of the Cr.P.C. In view of that, the applicant has made out a case for grant of anticipatory bail. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) In the event of the arrest, the applicant - Sheikh Sabir Sheikh Isa in connection with Crime No.5/2020 registered with Police Station, Pimpalgaon Raja, District Buldhana for the offences punishable under Sections 420 and 265 read with Section 34 of the Indian Penal Code, be released on anticipatory bail on executing P.R. bond 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 induce, threat or promise any witnesses who are acquainted with the facts of the case physically or by way of electronic media.

7. The applications are disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*