



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

CRIMINAL APPLICATION (ABA) NO. 675/2023

Gopal Sahebrao Kanade V/s State of Maharashtra
WITH

CRIMINAL APPLICATION (ABA) NO. 656/2023

Chandrashekhar Sahebrao Matalwar V/s 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. A.S. Manohar, counsel for applicants.

Mrs. Sneha Dhote, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03/01/2024.

1. Heard.
2. By this applications, the applicants are seeking pre-arrest bail, in the event of their arrest, in connection with Crime No. 440/2023 registered with Police Station Maregaon, District Yavatmal, for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code, 1860.
3. The criminal application (ABA) No. 675/2023 is preferred by the Gopal Sahebrao Kanade whereas, the criminal application (ABA) No. 656/2023 is preferred by Chandrashekhar Sahebrao Matalwar (Kanade). The applicants are apprehending arrest at the hands of Police as the accusation made against them, on the basis of report lodged by the informant, on an allegation that the accused persons in furtherance of their common intention hatched the conspiracy and thereby agreed to sell/

partnership of the liquor licence to the informant for the amount of Rs. 35,00,000/-. It is further alleged that the said amount has been transferred by selling the agriculture field standing in the name of the father of the informant. However, the said liquor licence was not transferred on the name of the complainant and on enquiry, it revealed to the complainant that the said liquor licence is already transferred on the name of some other person.

4. The learned counsel Mr. A.S. Manohar for the applicants submitted that as far as the role of the present applicants is concerned, only allegation against them is that they were present in the meeting which was held on 16/12/2020. Except this allegation, there is no whisper that the present applicants have played any vital role. As per the allegation, the amount was paid to the father of the present applicants. So, no specific role is attributed to the present applicants. The another co-accused Raju Shivram Jaiswal is already released on anticipatory bail. The custodial interrogation of the present applicants is not required. In view of that, they be protected by granting anticipatory bail.

5. The said application is strongly opposed by the State on the ground that present applicants are the son of the co-accused, who is no more, namely Sahebrao Barikrao Kanade. The present applicants have participated in the meeting and in furtherance of common intention, the alleged crime is committed. Considering the nature of

the crime and the huge amount is involved, the custodial interrogation of the applicants is required and prays for rejection of the application.

6. Having heard learned counsel for the applicants and learned APP for the State. Perused the recitals of the FIR and investigation papers. From the investigation papers, it reveals that as far as the role of the present applicants is concerned, only to the extent that they were present in the meeting, which was held on 16/12/2020. The recitals of the FIR shows that the amount which allegedly paid by the informant is to the father of the present applicants. As far as the issue regarding the recovery of the amount is concerned, it would be civil transaction and dispute as regards the recovery of the money would cover under the civil transactions. Considering the allegations against the present applicants, which is only to the extent of presence during meeting, their custodial interrogation is not required. In view of that, criminal application deserves to be allowed.

7. Moreover, the offence alleged against the present applicants is alleged under Section 420 for which punishment is provided is less than seven years. In view of the guidelines issued by the Hon'ble Apex Court in the case of **Satender Kumar Antil V/s. Central Bureau of Investigation, reported in (2022) 10 SCC 51** which says that, as far as the arrest in cognizable offence is concerned, is not required, wherein punishment provided

is 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. Section 41 of Cr.P.C. mandates the police officer to record his reasons in writing while making the arrest.

8. In view of that, in the present case there are no satisfactory grounds placed on record to show that, the arrest of the present applicant is required. Considering the role attributed to the present applicants, applications deserves to be allowed. Accordingly, I proceed to pass following order:

- a) The criminal applications are **allowed**.
- b) The applicants – Gopal Sahebrao Kanade and Chandrashekhar Sahebrao Matalwar are released on anticipatory bail in the event of their arrest, in connection with Crime No. 440/2023 registered with Police Station Maregaon, District Yavatmal, for the offences punishable under Section 420 read with Section 34 of the Indian Penal Code, 1860, on executing PR. Bond in the sum of

Rs. 25,000/- each with one solvent surety in the like amount.

- c) The applicants shall attend the concerned police station as and when required and shall cooperate with the investigating agency.
- d) The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- e) The applicants shall furnish their cell phone numbers and address with the address proof.
- f) The investigating officer shall issue 24 hours prior notice to the applicants if the presence are necessary.

The criminal applications are **disposed of**.

[URMILA JOSHI-PHALKE, J]