



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

CRIMINAL APPLICATION NO.2118 OF 2024
IN
CRIMINAL APPLICATION (ABA) NO.766 OF 2024
(Sau. Kalpana Kailash Mohite 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. M.V. Joshi, Advocate for the applicant.
Mr. N. Autkar, APP for the State.
Mr. R. Khan, Advocate for Assist to Prosecution.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- NOVEMBER 29, 2024

Heard.

2. By this application, the original complainant is seeking permission to assist the prosecution by engaging the Counsel.

3. In view of the contention raised in the application and the application is filed by the original complainant, permission is granted to engage the Counsel to assist the prosecution.

4. The application is allowed and disposed of accordingly.

CRIMINAL APPLICATION (ABA) NO.766 OF 2024

Apprehending the arrest at the hands of police in connection with Crime No.1074/2024 registered with Police Station Yavatmal, District Yavatmal for the offence punishable under Section 305(a) of the Bharatiya Nyaya

Sanhita, 2023, the applicant approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of report lodged by the informant Priyanka Akash Rupawat on an allegation that the present applicant had been to her house as the guest. On the day of incident, inadvertently the locker of the cupboard remained open and subsequently, she came to know that there is a theft of cash amount of Rs.2000/- as well as gold ornaments worth of Rs.4,51,682/-, and therefore, she suspected that the present applicant has committed the said theft and she lodged the report.

3. Learned Counsel for the applicant submitted that merely on the basis of suspicion the FIR is lodged by the informant. The alleged incident according to her has taken place on 30/09/2024 whereas the FIR is lodged on 02/10/2024. There is no explanation as far as the delayed FIR is concerned. He submitted that merely on suspicion the crime is registered against the present applicant. At this stage, immediate custodial interrogation of the applicant is not required. In view of that, the application deserves to be allowed.

4. Learned APP and learned Counsel for the complainant strongly opposed the application. It is submitted by the learned APP that at the instance of the complainant criminal law was set in motion. The

investigating agency has drawn the spot panchnama and recorded the statements of 15 witnesses. The investigation is at a primary level, the custodial interrogation of the applicant is required for recovery of the gold ornaments worth of Rs.4,51,682/-. He submitted that not only this but after interim protection the applicant has not cooperated with the investigating agency and her behaviour was completely arrogant with the investigating agency. The case diary shows the conduct of the present applicant. It is further submitted that from the recitals of the case diary it reveals that even she has shown the disregard to the order passed by this Court. In view of that 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 the applicant had been to the house of the complainant as a guest and committed the theft worth of Rs.4,51,682/-. This Court has protected her by imposing the condition that she shall attend the concerned police station once in a week and shall cooperate with the investigating agency. From the recitals of the case diary and the submissions made by the learned APP that the present applicant has not only declined to cooperate with the investigating agency but also shown the disregard to the order passed by this Court and threatened the investigating agency also. Considering the conduct of the present applicant admittedly, she is not entitled for any protection granted by this Court.

6. As per the order passed by this Court it was obligatory on the part of the present applicant to attend the concerned police station and to cooperate with the investigating agency but it seems that after passing the order of the interim protection she has not once turned to the police station and not cooperated with the investigating agency. Considering the same, the application deserves to be rejected.

7. The application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*