



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

CRIMINAL APPLICATION (ABA) NO. 776 OF 2024

Narendrasing Mangalsing Gaur 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. Acharya, counsel for applicant.

Ms. Shamshi Haider, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/12/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No. 318/2024 registered with Police Station Malkapur City, Malkapur for the offence punishable under Sections 408 and 506 of the Indian Penal Code, 1860, the applicant approached this Court for grant of pre-arrest bail.

2. Heard learned counsel for the applicant, who stated that the accusation against the present applicant is on the basis of a report lodged by Rameshsingh Bhikansingh Rajput. The applicant is the brother-in-law of the informant, and there was a money transaction between them. Out of that money transaction, some dispute arose, and therefore, this FIR is lodged against the present applicant. He submitted that the alleged offences are punishable with imprisonment up to seven years, and there is no strict compliance in view of Section 41A of the Cr.PC. As the notice issued to the present applicant nowhere reveals for what purpose, the custodial interrogation of the

present applicant is required. The investigating officer has not satisfied himself or not recorded the reasons why the arrest of the present applicant is required. He further submitted that at the most, the civil dispute would arise between the parties. As far as the criminal offence is concerned, there is no material to show that the said amount is paid to the present applicant. Considering the same, the applicant be protected by granting anticipatory bail.

3. Learned APP strongly opposed the said application and submitted that the informant is 18 years old. The present applicant is serving as a driver with him, by committing the breach of trust, he has misappropriated the amount of Rs. 12,00,000/-, in view of that, the application deserves to be rejected.

4. After hearing both sides and on perusal of the recitals of the FIR, it reveals that the applicant as well as the informant both are related to each other and there was a money transaction between them. Out of that, money transaction, the alleged FIR came to be lodged. As far as the fulfillment of the requirement under Section 41-A of Cr.P.C. notice is concerned, in the said notice nowhere reason is recorded by the investigating officer as to what purpose the custodial interrogation of the present applicant is required. Considering that there is no compliance under Section 41A of Cr.P.C. by issuing the proper notice as well as considering the nature of the

dispute between the parties. The applicant has made out a case for grant of anticipatory bail. In view of that, I proceed to pass the following order.

- a] In the event of arrest, in connection with Crime No. 318/2024 registered with Police Station Malkapur City, Malkapur for the offence punishable under Sections 408 and 506 of the Indian Penal Code, 1860, the applicant ***Narendrasing Mangalsing Gaur*** shall be released on anticipatory bail on executing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- b] The applicant shall attend the concerned police station once in a week on Monday between 10.00 a.m. to 01.00 p.m. and shall cooperate with the investigating agency.
- c] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- d] Single failure to attend the concerned police station would lead to the cancellation of bail.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]