



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

CRIMINAL APPLICATION (ABA) NO.784 OF 2024

(Abdul Sagar s/o Abdul Jameel 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. D.S. Khushalani, Advocate for the applicant.
Ms K. Bhondge, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- NOVEMBER 29, 2024

Apprehending the arrest at the hands of police in connection with Crime No.265/2024 registered with Police Station Nagpuri Gate, District Amravati for the offences punishable under Sections 419, 420 and 506 of the Indian Penal Code, the applicant approached this Court for grant of pre-arrest bail.

2. Learned Counsel for the applicant appearing through video conferencing has submitted that there was an agreement to sell between the present applicant and the informant and some amount was accepted towards the earnest amount, thereafter the dispute started between the parties, and therefore, the sale-deed was not executed. He submitted that other proceedings like the proceeding under Section 138 of the Negotiable Instruments Act, 1881 is already filed. He further submitted that in fact he is the victim in the said transaction as the original owner has not executed the sale-deed in his favour, and therefore, he could not execute the sale-deed in favour of

the informant. Thus, at the most the nature of the transaction is of a civil nature and the informant can file the suit for specific performance. As far as the criminal offence is concerned there is no intention to dupe the informant but only to give the colour of criminal offence, this FIR is lodged. He submitted that as far as the custodial interrogation is concerned which is not required as entire transaction revolves around the documentary evidence. In view of that, the applicant be protected by granting anticipatory bail. He would cooperate with the investigating agency.

3. Learned APP strongly opposed the said application and submitted that the investigation papers reveals that with intention to dupe the informant, the present applicant has obtained the money and was not executed the sale-deed. The proceeding under Section 138 of the Negotiable Instrument Act is already initiated by the informant. Considering all these aspects, the custodial interrogation of the applicant is required, and therefore, the application deserves to be rejected.

4. I have heard learned Counsel for both the parties. Perused the documents which are placed on record which shows that initially present applicant entered into an agreement of sale of the land with the original owner. The original owner has not executed the sale-deed in his favour and in between present applicant has also entered into an agreement to sell the said land to the

informant as he has not received the title, and therefore, he could not execute the sale-deed in his favour, therefore, there was no intention to commit any such offence. At the most, the dispute is of a civil nature. The custodial interrogation of the present applicant is also not required as entire transaction revolves around the documents. In view of that, the applicant has made out a case for grant of anticipatory bail. Accordingly, I proceed to pass following order:

(i) The application is allowed.

(ii) In the event of arrest, the applicant - Abdul Sagar s/o Abdul Jameel in connection with Crime No.265/2024 registered with Police Station Nagpuri Gate, District Amravati for the offences punishable under Sections 419, 420 and 506 of the Indian Penal Code, be released on anticipatory bail on executing PR Bond in the sum 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 Investigating Officer shall issue the notice in advance whenever the presence of

the applicant is required for the investigation purpose.

(v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

5. The contravention of any of the condition would lead to the cancellation of bail.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*