



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

CRIMINAL APPLICATION (ABA) NO.832 2024
(Saurabh Duhas Kulkarni 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. B.D. Sachdev, Advocate for the applicant.
Mr. S.V. Narale, APP for the State.
Mr. D.S. Jagyasi, Advocate for the complainant.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- DECEMBER 18, 2024

Apprehending the arrest at the hands of police in connection with Crime No.771/2024 registered with Police Station Jaripatka, Nagpur, District Nagpur for the offences punishable under Sections 420, 467, 468 and 471 read with Section 34 of the Indian Penal Code, the applicant approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of report lodged by Satish Gurmukhdas Lalwani on an allegation that his daughter has completed MBBS and her result of MBBS was declared on 14/03/2023. Thereafter, she wants to take an admission for the further studies, and therefore, he was communicating with his friends. On 08/05/2023 he came to know that one Amit Nagdevte is assisting the students in obtaining the admissions, therefore, he obtained the mobile number of said Amit. Amit promised him that he would help him to obtain an admission in Post Graduation (PG). However, his daughter has obtained low

marks. Thereafter, Amit has informed him that the admission of his daughter can be done against the cancellation seat at Bangalore and the present applicant can help him to obtain the said admission. Therefore, he meet the present applicant i.e. Saurabh Kulkarni. The present applicant also visited his house and promised him that he would help him to obtain the admission against the cancellation seat and demanded the amount of Rs.2,36,00,000/- out of that Rs.70,00,000/- was paid by the informant to the present applicant as well as to the other co-accused. Subsequently, his daughter has not received the admission and he was duped by the present applicant. It is further alleged that some forged documents were also handed over to the informant to show that his daughter has received the admission. Subsequently, it reveals that the said documents were prepared by forging it. On the basis of the said report, the police have registered the crime against the present applicant as well as the other co-accused.

3. Learned Counsel for the applicant submitted that the present applicant has neither received a single penny towards the said transaction. Moreover, the said transaction is of a civil nature and only to give the gravity to the said act, the criminal offence is registered against the present applicant. He submitted that, in fact, the applicant has cooperated with the investigation agency by attending the police station. His statement is also recorded. There is nothing on record to show that it was

the present applicant, who has received the amount or has forged the documents. As far as the custodial interrogation of the present applicant is concerned, it is not required. In view of that, he be protected by granting anticipatory bail. In support of his contention he placed reliance on the decision of the Hon'ble Apex Court in the case of ***Lalit Chaturvedi and ors. vs. State of Uttar Pradesh and anr. Dated 06.02.2024***, wherein the Hon'ble Apex Court has dealt with the ingredients of Sections 406 and 420 of the IPC. On going through the facts of the cited case it revealed that the applicant therein had supplied wood waste fuel worth of Rs.5,69,31,811/- and out of that transaction some amount was to be recovered, and therefore, the complainant therein had filed the complaint. In the light of the said facts, the observations of the Hon'ble Apex Court by referring the judgment in the case of ***Mohammed Ibrahim and ors. vs. State of Bihar and anr. (2009) 8 SCC 751*** wherein the Hon'ble Apex Court has held that it is quite clear that respondent Sanjay Garg's grievance is regarding failure of the appellants to pay the outstanding amount, in spite of the respondent Sanjay Garg's repeated demands. It is further observed that the assertions made in the complaint are correct, but even then, a criminal offence under Section 420 read with Section 415 of the IPC is not established in the absence of deception by making false and misleading representation.

4. He further placed reliance on the decision of the Hon'ble Apex Court in the case of ***Bimla Tiwari vs.***

State of Bihar and ors. (2023) 11 SCC 607, wherein also the facts of the case shows that the marriage of the informant's daughter was fixed with the son of respondent no.2 and in the engagement rituals, the amount of Rs.6,00,000/- in cash was given to the respondents and thereafter, the respondent demanded further money and vehicle and the crime came to be registered.

5. Learned APP and learned Counsel for the complainant strongly opposed the application and submitted that the present applicant is the main conspirator, who promised the informant that, if the money is paid, the admission of his daughter against the cancellation seat can be made and obtained amount of Rs.70,00,000/-. It is submitted that huge amount of Rs.2,36,00,000/- was demanded but the informant has paid only Rs.70,00,000/-. Thus, the intention of the accused person appears from the inception and in furtherance of such intention, they have prepared said forged documents. It is submitted that the applicant is the main conspirator in the said transaction, and considering the involvement of the present applicant in the offence of forgery, admittedly, his custodial interrogation is required, and in view of that, the application deserves to be rejected.

6. I have heard the learned Counsel for both the parties. Perused the investigation papers from which it reveals that the FIR is lodged by the informant on an

allegation that he got acquaintance with the present applicant through one Amit Nagdevte and said Amit Nagdevte told that the present applicant can help him to obtain the admission in PG course for his daughter. The recitals of the FIR further shows that thereafter, the present applicant on various occasions communicated with him, also took him at Bangalore. The original documents were also obtained from the informant. Thereafter some forged letters were also issued to the informant showing that the daughter of the informant has received an admission. The amount of Rs.70,00,000/- was also obtained from the informant, and subsequently, the informant came to know that no such letters are issued by the institution wherein she was to be admitted. It further reveals to him that the letter which was forged in the name of Karnataka Examination Authority and he has verified from the said authority's website and then it was revealed to him that the amount was obtained in the name of one K. Krushnamurthy, who is not the Chairman of the said Institution, and thereafter, he approached to the police station and lodged the report.

7. During the investigation, the What's App chat on the phone of the daughter of the informant was also collected, wherein it was informed by the present applicant that she should not show the documents to anybody till he advises. As far as the statement of the present applicant that he has not received any amount is concerned, the learned Counsel for the applicant has

pointed out that he has already refunded the amount of Rs.25,000/- twice to the complainant. He rightly submitted that, if he has not obtained the money, there is no reason for him to refund the said amount to the complainant. The statements of various witnesses are also recorded during the investigation. The attempt certificates and various documents, which are filed on record and the communication by the Karnataka Examination Authority, which also appears to be forged one. Considering all these aspects, at this stage, the applicant has not made out a case for grant of anticipatory bail. Admittedly, to ascertain the facts, his custodial interrogation is required. In view of that, the application deserves to be rejected.

8. Accordingly, the application is rejected.

(URMILA JOSHI-PHALKE, J.)

**Divya*