



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

CRIMINAL APPLICATION (ABA) NO. 818 OF 2023

Roshan Gopalrao Kalmegh V/s The 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. P.V.Navilani, counsel for the applicant.

Mr. N.R.Rode, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 23/02/2024.

1. Apprehending arrest at the hands of Police in connection with Crime No. 529/2023 registered with Police Station City Kotwali, Tq. and District Amravati for the offence punishable under sections 120-B, 419, 420, 465, 468 and Section 471 of the Indian Penal Code, 1860. The applicant approached this Court by grant of pre-arrest bail.

2. Mr. P.V.Navilani, learned counsel for the applicant submitted that accusation against the present applicant is that the informant is the owner of Plot No. 37 of survey No. 77/2, ad-measuring 1614 Sq.Ft. The above referred plot was purchased by him from one Hemantkumar Vyas. During the verification of the record, it was found that the plot had been sold out by someone claiming himself to be the informant, and it was sold to the co-accused namely Suresh Tale by preparing the forged document.

3. The learned counsel for the applicant further submitted that as far as the present applicant is

concerned, he has merely signed on the said sale-deed, and there is no material on record to show that he was having knowledge that sale-deed which is executed is forged one.

4. The learned APP strongly opposed the present application on the ground that custodial interrogation of the present applicant is required, as the allegations are serious, and the plot owned by the informant is sold by impersonation, and the present applicant is also one of the conspirator .

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers. From the investigation papers, it reveals except the allegation that he stood as a witness, no other role is attributed. Considering the same, the custodial interrogation of the present applicant is not required.

6. Moreover, the offences alleged are not punishable with imprisonment upto seven years. In view of the guidelines issued by the Hon'ble Apex Court in ***Satender Kumar Antil Vs. Central Bureau of Investigation and Ors. Reported in 2022(10) SCC 51***, wherein the Hon'ble Apex Court has issued the guidelines for avoiding unwarranted arrest and clogging of the bail applications. It is held that even for a cognizable offence an arrest is not mandatory. If the police officer is satisfied that a person has committed a cognizable offense, the officer shall record his reasons by assigning the reasons why the arrest is required. The consequences of non-compliance with Section 41 shall

certainly inure to the benefit of the person suspected of the offence.

7. In view of the observation of the Hon'ble Apex Court and considering the offence alleged are punishable less than seven years, the role of the present applicant is to the extent of signing the document. The custodial interrogation of the present applicant is not required. In view of that, interim protection granted to the present applicant deserves to be confirmed. Accordingly, I proceed to pass following order:-

- a. The criminal application is **allowed**.
- b. In the event of his arrest, in connection with Crime No.529/2023 registered with Police Station City Kotwali, Tq. and Dist. Amravati for the offences punishable under Sections 120-B, 419, 420, 465, 468 and Section 471 of the Indian Penal Code, 1860, the applicant – **Roshan Gopalrao Kalmegh**, shall be released on anticipatory bail on furnishing PR. bond in the sum of Rs.25,000/- with one surety in the like amount.
- c. The applicant shall attend the concerned Police Station once in a week i.e. on every Sunday between 10.00 a.m. to 01.00p.m. and shall cooperate with the investigating agency till filing of the charge-sheet.

- d. The applicant shall not induce, threat or promise to any witnesses who are acquainted with the fact of the present case.

[URMILA JOSHI-PHALKE, J.]