



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

CRIMINAL APPLIATION (ABA) NO. 5 OF 2024

SHRI AKSHAY SHEKAR BARSKAR

Vrs.

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

Shri A. A. Jambhulkar, Advocate for applicant.

Ms. Sneha Dhote, A. P. P. for respondent-sole.

CORAM: URMILA JOSHI-PHALKE, J.

DATE : 15/02/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No.1138/2023 registered under Section 420 of the Indian Penal Code and Section 66-D of the Information Technology Act, 2008, the applicant approached to this Court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of report lodged by Dhanraj Sudam Kaithal on an allegation that he was in need of financial assistance and co-accused gave him assurance to assist him in getting the loan from the bank. The present applicant and other co-accused were along with accused No.1 and all the accused assured him that if he provides the mobile phone and other documents to him, they will assist him in getting the loan. Accordingly, present applicant and co-accused Nagesh Pawar introduced him with one person by

representing that he is a Bank Manager. Thereafter, he has handed over some documents. On the basis of said documents, the loan was obtained. It was represented to him that the amount would be deposited in his account and he should not withdraw the same for 15 days. Subsequently, he came to know that Rs.4,25,000/- is withdrawn from his account. On the basis of said report, police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that as far as present applicant is concerned, no specific role is attributed to him. The FIR is lodged after three months. Custodial interrogation of the present applicant is not required. In view of that, he be protected by granting ad-anticipatory bail.

4. Learned APP strongly opposed the application on the ground that present applicant in connivance with other co-accused represented the informant that they will assist him in getting the loan amount and obtain necessary documents. Accordingly, amount of Rs.6,60,000/- was credited in the account of informant, out of which, amount of Rs.4,25,000/- is transferred from the account of the informant to the account of accused No.2 - Nagesh Pawar. She further submitted that amount is to be recovered from the present applicant as well as other co-accused. Though notice under Section 41-A is issued to the present applicant, he was not found on given address.

Therefore, he could not be served. If the applicant is released on anticipatory bail, he would not be available for trial and there is apprehension of leaving away. In view of that, application deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. From the recitals of the FIR and other statements, it shows that present applicant and other co-accused approached to the informant, assured him and obtained documents. The loan amount was also sanctioned in the name of informant, out of which, the amount of Rs.4,25,000/- is withdrawn and transferred in the account of co-accused. As far as present applicant is concerned, specific role is attributed by the informant in the FIR. The compliance under Section 41-A is there, as notice is issued to the present applicant, but it was not served as the applicant was not found on the given address. There is general diary entry to that effect.

6. In the light of the above background, the apprehension raised by the learned APP is substantiated that if the applicant is released on anticipatory bail, he would not be available for the investigation purpose and there is apprehension of leaving away. Considering the prima facie case and nature of offence which is economic offence, the case is not made out to grant anticipatory bail. In view of that, application deserves to be rejected. Accordingly, I proceed to pass following order :-

ORDER

7. The application is rejected.

[URMILA JOSHI-PHALKE, J.]

Choulwar