



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

CRIMINAL APPLICATION (ABA) NO. 258 OF 2024

Deepak Narayanrao Dhore V/s 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. PV.Navilani, counsel for the applicant.

Mr. H.R.Dhumale, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/04/2024.

1. Apprehending the arrest at the hands of the Police, in connection with Crime No. 109/2024 registered with Police Station City Kotwali, District Amravati for the offence punishable under Sections 419, 420, 468, 471 read with Section 34 of the Indian Penal Code, 1860, the applicant approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicant that he has produced forged No-Dues Certificate to obtain the loan amount of Rs.30,00,000/-. The loan which is sanctioned by the Bank to the applicant is the public money and therefore, by passing order dated 16/04/2024, the investigating officer was directed to follow the guidelines issued by the Hon'ble Apex Court in the case of *Satender Kumar Antil Versus Central Bureau Of Investigation & Anr. reported in 2022 LiveLaw (SC) 577*. Despite the order passed by this Court on 16/04/2024, no notice is issued by the Investigating Officer to the present applicant. No-Dues Certificate is already with the State Bank

of India. The offence alleged for which the punishment of less than seven years is provided.

3. In view of the observation of the Hon'ble Apex Court that even for a cognizable offense, an arrest is not mandatory as can be seen from the mandate of this provision. If the officer is satisfied that a person has committed a cognizable offense, punishable with imprisonment for a term which may be less than seven years, or which may extend to the said period, with or without fine, an arrest could only follow when he is satisfied that there is a reason to believe or suspect, that the said person has committed an offense, and there is a necessity for an arrest. Such necessity is drawn to prevent the committing of any further offense, for a proper investigation, and to prevent him/her from either disappearing or tampering with the evidence. This provision mandates the police officer to record his reasons in writing while making the arrest. Thus, a police officer is duty-bound to record the reasons for arrest in writing. The consequence of non-compliance with Section 41 shall certainly inure to the benefit of the person suspected of the offense. While considering the application for enlargement on bail, courts will have to satisfy themselves on the due compliance of this provision.

4. Despite the order passed by this Court, the directions of the Hon'ble Apex Court are not complied by the investigating officer. It seems that, the custodial interrogation of the present applicant is not required

immediately. In view of that, the applicant can be protected by granting ad-interim protection. Accordingly, I proceed to pass the following order:

ORDER

- i] In the event of arrest, in connection with Crime No. 109/2024 registered with Police Station City Kotwali, District Amravati for the offence punishable under Sections 419, 420, 468, 471 read with Section 34 of the Indian Penal Code, 1860, the applicant – **Deepak Nararyanrao Dhore**, shall be released on ad-interim anticipatory bail on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- ii] The applicant shall attend the concerned Police Station once in a week i.e. on Monday between 10.00 a.m. to 01.00 p.m. and shall cooperate with the investigating agency.
- iii] The applicant shall furnish his cell-phone number and address with address proof alongwith names of his two relatives alongwith their address proof.
- iv] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- v] Stand over after **two weeks**.

[URMILA JOSHI-PHALKE, J.]