



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

CRIMINAL APPLICATION (ABA) NO.258 OF 2024

Deepak Narayanrao Dhore

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, City
Kotwali, Amravati

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P. V. Navlani, Advocate for applicant.
Ms. Sneha Dote, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 12/08/2024

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 offences 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 Vs. Central Bureau**

Of Investigation & Anr. reported in **2022 LiveLaw (SC) 577**. Despite the order passed by this Court on 16/04/2024, no notice was issued by the Investigating Officer to the present applicant. The No-Dues Certificate is already with the State Bank of India. It is further submitted by the learned Counsel for the applicant that the offence alleged for which the punishment of less than seven years is provided.

3. He further submitted that in view of the observation of the Hon'ble Apex Court that even for a cognizable offence, 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 offence, 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 offence, and there is a necessity for an arrest. Such necessity is drawn to prevent the committing of any further offence, 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 offence. While considering the bail application, 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. The incriminating document is already in the custody of the Investigating Officer and considering all these facts, the interim protection was granted to the present applicant. He further submitted that considering that the document is already in possession of the Investigating Officer, the custodial interrogation of the present applicant is not required.

5. Learned Counsel for the applicant further submitted that before the Debts Recovery Tribunal, the bank officers have not uttered any single word regarding the forgery of the said document. He submitted that relevant statements of the witnesses are already recorded by the Investigating agency, in view of that, the custodial interrogation is not required. Moreover, the applicant is attending the Police Station regularly and there is no allegation of misusing the liberty.

6. Learned APP strongly opposed the said application on the ground that though applicant is attending the Police Station but he is not cooperating

the investigating agency, in view of that the application for grant of anticipatory bail deserves to be rejected.

7. Heard the learned Counsel for the applicant and learned APP for the State and perused the investigating papers. Admittedly, there is non-compliance of Section 41 which inure the applicant to release him on anticipatory bail. Moreover, the incriminating article i.e. the No-Dues certificate which is alleged to be forged is already in the possession of the investigating agency. As far as the attendance at the Police Station is concerned, the applicant is already attending the Police Station. Though the Investigating agency has submitted that he is not cooperating with the investigating agency but this vague statement is not sufficient to reject the bail application for grant of anticipatory bail. I have also perused the investigation papers from which it reveals that the relevant documents are already seized by the investigating agency. The relevant statements are also already recorded by the investigating agency. Merely because the investigating agency wants a custodial interrogation is not sufficient to reject the application for anticipatory bail. The investigating agency has to make out the grounds for what purpose the custodial interrogation is required. Considering the same, the interim protection granted to the present applicant

deserves to be confirmed. Accordingly, I proceed to pass following order:

ORDER

i] The interim protection granted to the present applicant in view of order dated 24.04.2024 in connection with Crime No.109/2024 registered with Police Station City Kotwali, District Amravati for the offences punishable under Sections 419, 420, 468, 471 read with Section 34 of the Indian Penal Code, 1860, the applicant – **Deepak Narayanrao Dhore**, shall be released on 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, till filing of the charge-sheet.

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.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)