



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

CRIMINAL APPLICATION(ABA) NO. 475 OF 2025

Sau.Roshani Romal Naktode Vs. State of Maharashtra and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.A.R.Wagh, counsel for the applicant.
Ms.M.A.Barabde, APP for the State.

CORAM : MRS. VRUSHALI V. JOSHI, J.

DATE : 09/09/2025

1. Heard.
2. The applicant is apprehending the arrest in Crime No. 143 of 2025 registered with Police Station Lakhandur, District Bhandara for the offences punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code, the applicant approached this Court for grant of anticipatory bail.
3. It is alleged that the applicant, who is a doctor has came in contact with the family of the informant and she has stated that she will give the job to the brother-in-law of the first informant. Thereafter, she had asked the first informant to pay the amount of 45,00,000/- as she can give the dealership of petrol pump to him.

She has duped many persons by giving assurance on the pretext of giving job. When the applicant has asked her for money, she has given the cheque which was dishonoured. Thereafter, the first informant has lodged the complaint and the crime came to be registered.

4. The learned counsel appearing for the applicant has stated that the applicant has also lodged the complaint bearing Crime No. 26 of 2025 for the offences punishable under Sections 115, 296, 3(5), 333 and 351(2) of the Bharatiya Nyaya Sanhita, 2023. The monitory transaction is there, but the allegations made against the applicant are denied. The learned counsel appearing for the applicant has stated that the mandatory provisions for issuing the notices is not complied with by the police before registration of the Crime. The learned counsel appearing for the applicant has relied on the judgment of the Hon'ble Apex Court in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation and anr.*** reported in ***(2022) 10 SCC 51***.

5. The learned APP has opposed the application stating that this is a serious case. The applicant has duped many persons and has grabbed the amount. She has not co-operated with the police machinery, when she was attending the police station as per the conditions imposed in ad-interim protection application.

6. The learned APP has relied on the judgment of High Court of Delhi in the case of ***Shamikh Shahbaz Shikh Vs. State***

Government of NCT, Delhi in *Bail application No. 731 of 2025* and *CRL M.A.No.5303 of 2025* in support of her argument.

7. The learned counsel appearing for the non-applicant No.2 has stated that the applicant has not received any notice from the police. She has no any apprehension of the arrest and that cannot be the reason for granting the bail to the applicant. Hence, prayed to reject the application.

8. Heard the learned counsel appearing for the applicant, learned APP appearing for non applicant/State and the learned counsel appearing for non-applicant No.2. It is the mandatory provision to issue notice under Section 41 of the Criminal Procedure Code, 1973. The Hon'ble Apex Court in the case of *Satender Kumar Antil cited supra specifically* has stated as below:-

“23. Section 41 under Chapter V of the Code deals with the arrest of persons. 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. He/she can also

be arrested to prevent such person from making any inducement, threat, or promise to any person according to the facts, so as to dissuade him from disclosing said facts either to the court or to the police officer. One more ground on which an arrest may be necessary is when his/her presence is required after arrest for production before the Court and the same cannot be assured.

24. 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. Similarly, the police officer shall record reasons when he/she chooses not to arrest. There is no requirement of the aforesaid procedure when the offence alleged is more than seven years, among other reasons.

25. The consequence of non-compliance with Section 41 shall certainly inure to the benefit of the person suspected of the offence. Resultantly, while considering the application for enlargement on bail, courts will have to satisfy themselves on the due compliance of this provision. Any non-compliance would entitle the accused to a grant of bail”.

9. Serious allegations are made against the applicant and she has duped many persons by giving the assurance of job. The cheque given by the applicant is also dishonoured. Though the allegations are serious in nature, as the mandatory provision is not complied with by the police machinery as per the guidelines of the Hon’ble Apex Court, the applicant cannot be arrested. Hence, the applicant is protected by granting anticipatory bail on following conditions.

Hence, the following order-

- i] The application is allowed on the same terms and conditions contained in the order granting ad-interim protection except the condition of attendance.
- ii] The order dated 02.07.2025 granting ad-interim anticipatory bail is confirmed.
- iii] The applicant shall attend the concerned police station every day from 1.00 pm to 2.00 p.m. till filing of the charge sheet in the matter.
- iv] The application stands **disposed of**.

JUDGE