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

CRIMINAL APPLICATION (BA) NO.779 OF 2025

Nikhil s/o Manoj Agrawal
Vs.
State of Maharashtra, through Police Station Officer, Police Station M.I.D.C., Akola, District Akola

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

Mr. A. M. Chandekar, Counsel for the applicant.
Mr. Amit Madiwale, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/08/2025

1. The applicant came to be arrested on 01.01.2025 in connection with Crime No. 440/2024 registered with Police Station M.I.D.C., Akola District Akola for the offence punishable under Sections 316(5), 318(4) and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. The crime is registered on the basis of report lodged by the informant on an allegation that he is in the business with his father of selling gram pulse and having his Dal-Mill by name Ravindra Dal-Mill, MIDC, Akola. That the applicant along with the other accused are doing grain brokerage business in Hyderabad (Telangana) in the name of Radhe Radhe Canwashing and Bajrang Canwashing. The informant in the last six months was sending gram

pulse from Akola to Hyderabad trader. Both people selling gram pulses. In the business of the said informant, they pay brokerage to the broker at the end of the year @ 20 per quintal. That the applicant along with the other co-accused informed the informant that the Agrawal Brothers are having a firm in the name of the Riddhi Siddhi Impex who supplies gram pulse to the Government and they are having huge business in Telangana and further informed the informant to supply the gram pulse through them and they will not be any problem. Accordingly, the informant supplied the gram pulses through the accused persons to the Riddhi Siddhi Impex on 19.06.2024. The informant has delivered the said goods amounting to Rs.57,58,660/- quintal and for that Riddhi Siddhi Impex had paid Rs.11,65,000/- to the informant as a part payment. On 31.08.2024 when the informant is requested the accused person to refund the balance amount, the applicant along with the other co-accused persons informed that the money of the owner of Riddhi Siddhi Impex Shri Agrawal has not been paid by the Telangana Government and there will arrange to pay the balance amount, and thereafter, the informant regularly was in contact, but his amount was not paid and thereby he was duped. It revealed during the investigation that the father of the applicant informed the informant that his sons Nikhil and Tushar had created a fake firm by name Riddhi Siddhi Impex and have taken the amount of Rs.45,93,000/- and they would repay the amount. Thus, it is criminal breach of trust as well as the offence under Section 420 of the Indian Penal Code i.e. cheating. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant, who submitted that now the investigation is already completed, charge-sheet is already filed. As far as the present applicant is concerned, the firm is registered in his name. The GST certificate is also issued in his name. The offences punishable are triable by the Court of Magistrate. As far as further incarceration is concerned, which is not required. In view of that, the application deserves to be allowed. Another ground raised by him is that the grounds of arrest are not furnished to him and therefore, there is no compliance of Section 50 of the Code of Criminal Procedure (for short 'Cr.P.C.') as well as Article 22(1) of the Constitution of India. In view of that, the application deserves to be allowed.

4. Heard learned APP, who submitted that during the investigation, the investigating authority visited the spot and carried out the spot panchnama and it revealed that the bill of the goods sent by the Ravindra Dal-Mill to Riddhi Siddhi Impex, Hyderabad along with the receipt of the transport. The investigating authority recorded the statements of the witnesses and during the investigation, the

investigating authority have gathered income tax returns of the applicant. During course of the investigation, the house of the present applicant and office is also searched and they have collected the trade license of National Trader. During course of investigation, the investigating authority also gathered the ledger major statements of the National Trader and also the delivery challan of the National Trader, bank statements of the co-accused Manoj Agrawal. During the course of investigation, the bank statements of the present applicant were also collected. From perusal of the charge-sheet and documents gathered during the course of investigation it would reveal that the GSTR 3V of the applicant which shows that the applicant is having his name as a registered person of a trade name Riddhi Siddhi Impex. The said documents shows that the applicant Nikhil Agrawal is the Proprietor of the firm namely Riddhi Siddhi Impex. The informant in the First Information Report has alleged that he had send the gram pulse to Riddhi Siddhi Impex firm. Thus, the applicant *prima facie* is directly involved in the commission of the crime and he submitted that the applicant is also not a resident of Maharashtra and therefore, their presence would not be there for the purpose of the trial. In view of that, the application deserves to be rejected.

5. After hearing both sides and perusal of the investigation papers, the statement of the father of

the applicant itself reveals that the said firm itself is not in existence. The investigation papers also shows that the informant had supplied the goods to the present applicant and his firm, however, he has not received the payment. He was misrepresented by the present applicant that he is alleged owner of Riddhi Siddhi Impex. However, the documents on the basis of which the representation was made itself was a forged document. During investigation, the search of the house as well as the office of the present applicant was carried out and his involvement in the said alleged offence revealed. Learned trial Court has rightly considered this aspect and rejected the bail application, considering the offence of criminal breach of trust revealed from the investigation papers. Now the investigation is already completed, charge-sheet is already filed. Learned Counsel also raised that the grounds of arrest were not communicated to him. Learned Counsel for the applicant also invited my attention towards the production warrant issued under Section 267 of Cr.P.C. This aspect is recently considered by the Hon'ble Apex Court in the case of **The State of Karnataka vs Sri Darshan Etc.** in **Criminal Appeal Nos. 3528 - 3534 OF 2025 (Arising from SLP (Crl.) Nos. 516 – 522 of 2025) decided on 14th August, 2025** in para No.20.1.2 the Hon'ble Apex Court has observed that Article 22(1) of the Constitution mandates that "no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice". Similarly, Section 50(1) Cr.P.C. requires that "every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for arrest.

6. It is further observed in para no. 20.1.3 that the constitutional and statutory framework thus mandates that the arrested person must be informed of the grounds of arrest – but neither provision prescribes a specific form or insists upon written communication in every case. Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown. In **Vihaan Kumar v. State of Haryana** reported in **2025 SCC OnLine SC 456**, it was reiterated that Article 22(1) is satisfied if the accused is made aware of the grounds in substance, even if not conveyed in writing. Similarly, in **Kasireddy Upender Reddy vs. State of Andhra Pradesh** reported in **2025 INSC 768**, it was observed that when arrest is made pursuant a warrant, reading out the warrant amounts to sufficient compliance. Both these post- Pankaj Bansal decisions clarify that written, individualised grounds are not an inflexible requirement in all circumstances.

7. In para No.20.1.7 it is further observed that the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a prima facie case. Its reliance on Pankaj Bansal and Prabir Purkayastha is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not ipso facto render custody illegal or entitle the accused to bail.

8. Here in the present case also, the applicant has not shown any prejudice caused to him. The production warrant itself discloses that the crime number as well as the relevant provisions are already mentioned in the production warrant. He has not made any grievance when he was first time produced

before the trial Court at the time of remand. He had engaged his Counsel before the trial Court, wherein this ground was not raised. Thus, in view of that, the observation of the Hon'ble Apex Court, no prejudice was demonstrated by the present applicant in the present application also. Thus, in view of the observation of the Hon'ble Apex Court, the application deserves to be rejected. Accordingly, it is rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate