



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

CRIMINAL APPLICATION(ABA) NO.660 OF 2025

Ashish Rajendra Hiralkar Vs. State of Maharashtra

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

Court's or Judge's Orders.

Mr.A.VKarnavat,counsel for the applicant.
Mr. Nitin Rode,APP for the State.

CORAM : MRS. VRUSHALI V. JOSHI, J.

DATE : 16/09/2025

1. The applicant is apprehending his arrest in crime No.331 of 2025 for the offences punishable under Sections 316(2) and 318(4) of the Bharatiya Nyaya Sanhita, 2023.

2. It is the case of the prosecution that the complainant, who is the grandfather of the applicant has lodged the complaint against him that he has withdrawn an amount of Rs.4,00,000/- from his bank account as the mobile number of the applicant was connected with the account of the grandfather. During the period from 2020 to 2024, the applicant has withdrawn the amount and therefore, the crime is registered against this applicant.

3. The learned counsel for the applicant has stated that there is family dispute between the paternal uncle of this applicant and the family of the applicant. The father of the applicant died in the year 2024 due to cancer. Mother of the applicant has filed Civil Suit against the paternal uncle with whom the grandfather is staying. As the Civil Suit is filed, this complaint came to be lodged.

4. The learned counsel appearing for the applicant has stated that notice under Section 41-A of the Criminal Procedure Code (for short hereinafter referred to as the Code) is not issued by the police after receiving the complaint against the applicant, which is the mandatory provision. As the amount was withdrawn with the permission of the grandfather for his treatment and the treatment of his father and at that time, the grandfather was staying with him. He has not committed any crime, hence prayed to grant him anticipatory bail.

5. Learned APP has opposed the application stating that the applicant has withdrawn the amount. Grandfather is of 74 years of age and for his eye surgery, he went to the Bank, and came to know that since, 2020-24 the applicant has withdrawn the amount without informing him hence prayed to reject the application.

6. Heard the learned counsel appearing for the applicant and the learned APP.

7. It appears from the record that the amount which is withdrawn from 2020-2024, in that period of time, the complainant was staying with the applicant. After the death of his father, the Civil Suit was filed and grandfather was staying with paternal uncle. There is substance in the statement made by the applicant that the amount was withdrawn with permission for the treatment of his father and his grandfather. As the mandatory provision of section 41-A of the Code is not complied with, as per the judgment of the Honble, Apex Court in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation and anr.*** reported in ***2022 LiveLaw (SC)577***. It is mandatory to issue notice under Section 41-A of the Code, which is not complied with by the police. The case is made out to protect the applicant by granting him anticipatory bail. Hence, the application is allowed, upon following conditions:-

i] It is directed that in the event of arrest of applicant Ashish Rajendra Hiralkar in connection with Crime No.331 of 2025 for the offences punishable under Sections 316(2) and 318(4) of the Bharatiya Nyaya Sanhita, 2023, the applicant shall be released on bail on furnishing P.R. Bond in the

sum of Rupees Twenty Five Thousand with one surety in the like amount.

ii] The applicant shall not in any way tamper with the prosecution evidence.

iii] The applicant shall not pressurize or threaten the prosecution witnesses.

iv] The applicant shall attend the concerned police station on every Monday and Saturday between 7:00 p.m. and 9:00 p.m.

v] The applicant shall co-operate the investigating officer.

Application stands disposed of.

JUDGE