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57.aba.457.432.2025 - corrected

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

CRIMINAL APPLICATION (ABA) NO.457 OF 2025

Aniket s/o Kishor Uttarwar
Vs.

State of Maharashtra, through Police Station Officer, Police Station Pusad
City, District Yavatmal

WITH

CRIMINAL APPLICATION (ABA) NO.432 OF 2025

Komal Avinash Gede
Vs.

State of Maharashtra, through Police Station Officer, Police Station Pusad
District Yavatmal

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

Court's or Judge's orders

Mr. A. C. Jaltare, Counsel for the applicant through video conferencing.
Mr. N. B. Jawade, APP for non-applicant /State in both applications.
Ms. Shaad Firdos Mirza, Counsel for the applicant in ABA No.432/2025.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 14/07/2025

Crime number
is corrected as per
Court's order
Dated 04/08/2025.

1. Apprehending the arrest at the hands of police in connection with Crime No.223 of 2025 registered with Police Station Pusad City, District Yavatmal for the offence punishable under Section 318(4) and 3(5) of the Bhartiya Nyaya Sanhita, 2023, the applicants approached this Court for grant of pre-arrest bail.

2. The applicant in Criminal Application (ABA) No.457/2025 Aniket s/o Kishor Uttarwar is the Sales

Manager of Ecofy Finance Limited, whereas the applicant in Criminal Application (ABA) No.432/2025 Komal Avinash Gede is the Proprietor of Saanvi Electric Vehicles and dealing with dealership of two wheelers including 'Komaki Flora'.

3. It is alleged that the applicants have shown the prices of the essentials and by increasing the same, disbursed the loan amount, and thereby cheated the various customers to the tune of Rs. 34,24,692/-.

4. Heard learned Counsel Mr. Jaltare in Criminal Application (ABA) No.457/2025 and learned Counsel Ms. Shaad Firdos Mirza in Criminal Application (ABA) No.432/2025. They both have submitted that as far as the allegations are concerned, which are baseless, their custodial interrogation is not required as they have already cooperated with the investigating agency by attending the concerned Police Station. Learned Counsel for the applicants also placed reliance on **Ashok Kumar Vs. State of Union Territory Chandigarh** in **Special Leave Petition (crl.) No.9949/2023** wherein para No.12 it is observed that :

"There is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may

also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. However, a mere assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient. The State would have to show or indicate more than prima facie why the custodial interrogation of the accused is required for the purpose of investigation.”

5. Learned APP strongly opposed the said application and submitted that during the investigation, it revealed from the statements of the various borrowers' costumes that they had obtained the loan on zero down payment, whereas against their names, a certain amount of down payment is shown and only their signatures are obtained on the loan proposal. Thus, it is crystal clear that applicants by showing the estimated price of the vehicles upon the committed fraud on the finance company and obtained more amount of finance, but also committed fraud with the customers by showing down payment paid against them, whereas they purchased the vehicles on the zero down payment. He submitted that some amounts are transfer to the accounts of the present applicant and therefore, her custodial interrogation is required. As far as the applicant in Criminal Application (ABA) No. 457/2025 he submitted that his custodial interrogation is required as he was working as sales Manager at the

relevant time. In view of that both applications are deserves to be rejected.

6. On hearing both sides and on perusal of the investigation papers, it reveals that the allegation against the present applicants is that they have shown that the down payment was made by the customers, in fact, the vehicles were given on zero down payment and the said amounts are siphoned by the present applicants. Even accepting the allegation as it is, as far as the custodial interrogation is concerned, which is not required. In view of the observation of the Hon'ble Apex Court in the case of **Ashok Kumar Vs. State of Union Territory Chandigarh** (referred supra) the State would have to show or indicate more than *prima facie* why the custodial interrogation of the accused is required for the purpose of investigation.

7. Considering the ground raised by the learned APP, the custodial interrogation is not required, however, some conditions can be imposed on the applicants. In view of that, the applications deserve to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The applications are allowed.

(ii) The interim protection granted to both the applicants by order dated 23.06.2025 and 26.06.2025 are confirmed with conditions

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that the applicants shall attend the concerned Police Station once in a week on Monday between 10.00 a.m. to 01.00 p.m., till filing of the charge-sheet and shall cooperate with the Investigating Agency.

(iii) The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(iv) The applicants shall furnish the detailed address, mobile numbers along with the address proof before the Investigating Officer.

(v) The applicant Komal Avinash Gede shall not deal with sale of the vehicles and inward and outward register of the sale of the vehicles.

Both the applications are disposed of.

(URMILA JOSHI-PHALKE, J.)