

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3568 OF 2015
[Bherulal Hiralal Bagul Vs The State of Maharashtra & others]
WITH
CRIMINAL APPLICATION NO. 3569 OF 2015
[Vinayak Hiralal Bagul vs The State of Maharashtra & others]

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Shri M.C.Jain, advocate for applicant
Shri A.S.Shinde, A.P.P. for respondent
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CORAM : V.M.DESHPANDE, J.
DATED : 22nd July, 2015

PER COURT : -

- 1] These two applications arise out of Crime No. 52 of 2015, registered with Songir police station, District Dhule, for the offences punishable under Sections 420, 467, 468, 471 r/w 34 of the Indian Penal Code.
- 2] I have heard Shri M.C.Jain, learned counsel for applicant and Shri A.S.Shinde, learned Additional Public Prosecutor for the respondent/State, in both these applications.
- 3] The first information report is lodged by Shrawan Sitaram Bagul. In the first information report, specific role is attributed against both the applicants by the first informant. According to the first information report, elder son of the first informant is educated upto B.Sc. He was unemployed. These two applicants submitted that vacancies are available in the Food and Drugs Department at Akola for Lab Technician and the Head of the said Department and their close relative the co-accused Prasanna Arun Shirodkar have thick acquaintance with the head of said Department, and therefore, the son of the first informant can be employed in

the said Department.

In the month of March, 2014, the present applicants along with the other co-accused had been to the residential house of the first informant and informed that for the purpose of giving employment to his son, he will require to spend Rs.Five Lacs and out of that Rs.One Lac will have to be given in advance, since it has to be given to the superior. Keeping reliance on that particular promise, the first informant gave Rs.One Lac to the applicant Vinayak.

4] Thereafter on 23.4.2014, both the applicants came to the residential house of the first informant and they handed over the order of appointment bearing No. UPC 144/II/2014, dated 22.4.2014 having Outward No. 30960/nv/Food Dispatch No.149-1/1113. The said appointment order was having the emblem of the Government and the said appointment order states that son of the first informant is appointed as Lab Attendant on a monthly salary of Rs.20200/-.

5] After handing over the appointment order, both the applicants demanded remaining amount. Rs.Two lacs were given by the first informant to these applicants on the next day and also assured the present applicants that the remaining amount will be paid after joining of Pankaj to the duties.

After 2-3 days, when the first informant had been to the office of the Department, which has issued the appointment order, that time said office disclosed that no such order was issued from the Department and the outward number and other numbers are not from the said office. That time, the first informant realised that the present applicants have cheated him. Thereafter he contacted both the applicants. Upon that, they agreed to repay the amount and in pursuance of that the first informant was called in the

house of the applicant Bherulal and cheque signed by Arun Shirodkar for Rs.2,75,000/- was given. However, that cheque was not honoured by the Bank for want of insufficient funds.

The first information report further states that, upon inquiry, it is also noticed by them that one Dilip Digambar Sonar and Swapnil Keshav Bagul are also cheated like the present first informant by the applicants by giving such bogus and fabricated appointment orders.

Thus, with this basic allegations, the first information report was lodged and offence is registered.

6] According to the learned counsel for the applicants, the entire case is bogus against the present applicants, in as much as, according to him, the applicant Bherulal, on the day, was discharging his election duty. He also filed affidavit of Raghunath Deoram Wagh, who was serving as a Head Master at Nutan Vidyalaya Nyahlod, Taluka District Dhule and who was a Presiding Officer at that particular election center.

Thus, the applicant Bherulal is claiming alibi. Alibi is a defence. Said defence has to be proved by the person who takes such plea, at the appropriate stage, however, for deciding application for anticipatory bail, such plea cannot be considered.

7] Further, if the affidavit of Raghunath Wagh is seen, then it is clear that, according to him, the order was torn down after six months, however, the identity card issued by him was kept by the said deponent in his cupboard. Further, according to this Raghunath Wagh when the applicant Bherulal had been to the Tahsil office, that time entire record is destroyed. Such type of affidavit clearly shows that this is nothing but filed only to help the applicant, in as much as this Raghunath Wagh has no concern with the Tahsil office and

he cannot state on affidavit that the election record kept in the Tahsil office is destroyed. Further, according to him, when the identity card was issued, that should be with the applicant Bherulal. In spite of that, this deponent Raghunath Wagh states on affidavit that the said identity card was kept in his cupboard. This demonstrates that this affidavit is filed by this man only to oblige the present applicant Bherulal.

8] The allegations made against the present applicants are clear that, these two applicants, taking disadvantage of the status of unemployed person, are giving false promises and extracted money from them and their parents. Thereafter they have courage to issue false appointment order. This requires indepth investigation from the investigating officer, since it is noticed that the persons like Raghunath Wagh are also bent upon to see that the culprits are screened from the course of justice.

9] Looking to the gravity of the crime, custodial presence of both the present applicants is just and warranted.

10] In that view of the matter, Criminal Application No. 3568 of 2015 and Criminal Application No. 3569 of 2015 are dismissed. The investigating officer shall take necessary steps and also investigate the role played by Raghunath Wagh while filing the affidavit before this court.

(V.M.DESHPANDE, J.)

dbm/crap3568.15