

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.918 OF 2015

Shankar Lakhu Poojari & anr. ... Applicants

Vs.

The State of Maharashtra ... Respondent

Ms.Gayatri Singh, Sr.Advocate /b Kranti L.C. for the Applicants
Mr.S.S. Pednekar APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **AUGUST 5, 2015**

P.C.:

1. The application is moved for pre-arrest bail as the applicants/accused are apprehending arrest in C.R. No.133 of 2015 for the offences punishable under sections 420, 467, 468, 471 r/w section 34 of the Indian Penal Code registered at Vishrambaug police station, Sangli. The Labour Officer Sheetal Sadashiv Kulkarni gave information to the police on 2.6.2015 about the offence committed by the applicants/accused, who are Chairman and Secretary of one Nivara Construction Labour Union. As per the case of the prosecution, the applicants/accused, being office bearers of this Labour Union, had submitted nearly 2264 applications for registration as labour workers. After getting registration as labour workers, such persons would be entitled to certain benefits under the scheme including some monetary benefits. As per the case of the prosecution, after verification, it was found that at

village Vasugude, 21 out of 23 persons were not building labourers. So also, at Kavathetakand, 13 out of 14 persons and at Abhanapur, 24 out of 298 persons were not building labourers. The applications of such persons were bogus which were submitted to the District office for registration for financial benefits. By this activity, the applicants have taken Rs.300 for each worker for registration. Some times, Rs.200/- or Rs.1750/- were also taken for other welfare schemes though the fee prescribed by the government is only Rs.85/- for such registration. Some workers had approached the Labour Officer and had filed complaints about such cheating. Therefore, the complaint was given and the police started investigating the offence against the applicants/accused.

2. The learned Senior Counsel appearing for the applicants/accused has submitted that the applicants/accused are falsely implicated in this case out of vengeance by the Labour Officer. These applicants/accused are the office bearers of the Labour Union which is working for the welfare of the workers. The applicants/accused had given the complaint against the Labour Officer, namely, Sheetal Kulkarni on 23.3.2015 to the Collector and on 27.3.2015 to the Lokayukta that the funds available for the welfare of the workers, which are made available by the government for various beneficial schemes under the Act, were not properly channelised utilised by the Labour Officer. She submitted that because of the said complaint, action is initiated by the Labour Officer by giving information to

the police on 26.6.2014 and thereafter, the offence is registered. She further submitted that the applicants/accused have deposited all the amounts which they had collected from the workers at the rate of Rs.85/- per head and therefore the government is not at loss of any amount for the registration as the registration fee are paid. She submitted that the applicants/accused are innocent. They have not committed any offence. There are no criminal antecedents against them. Hence, custodial interrogation for such offence is not required and the applicants/accused be given pre-arrest bail.

3. Learned Prosecutor has opposed the application. He submitted that on the complaint of the Labour Officer so also the statements of the labourers who gave complaint against the applicants/accused that labour certificates which are issued to them are bogus because they were never in the work or employment of any person. He relied on the statements of the witnesses who have stated that an amount of Rs.300/- was charged by the Union leaders i.e., the applicants/accused from the poor and illiterate workers on the pretext of getting their names registered. The learned Prosecutor has argued that after depositing Rs.85/- per worker, the remaining amount is grabbed by the applicants/accused for their personal benefit. It is further submitted that another offence is registered against the applicants/accused i.e., C.R. No.19 of 2015 with Sindhudurg police station.

4. Perused the FIR, the statements of the witnesses and the documents relied on by both the parties. It appears from the record that prima facie bogus certificates are issued to the persons, who in fact are not labourers. Hence, their registration as labourers may not be valid and those certificates are bogus. From the record and the receipts which are produced herewith, it appears that the applicants/accused have deposited the amount of Rs.8500/- in the groups of 100 workers for their registration as labour workers. Thus, it shows that registration fees of Rs.85/- per labourer fixed by the Government is deposited by the applicants/accused. Thus, prima facie, there is no proprietary loss caused to the government. However, there is grievance of other witnesses that more money is charged from them. The background of an important fact that the applicants/accused have given the complaint against the present Labour Officer in the month of March 2015, cannot be overlooked. All the forged documents are available to the prosecution. Therefore, considering the nature of the offence, the custodial interrogation of the applicants/accused is not required. Accordingly, pre-arrest bail is granted, however, on the following conditions:

- i) In the event of arrest, the applicants/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/- each, with one or two solvent sureties in the like amount;

- ii) The applicants shall not tamper with the evidence;
 - iii) The applicants shall not indulge into any kind of offence or any activity of making application in the name of any fake person or showing any bogus employment of any person to obtain registration as the construction labourer, unless it is submitted with affidavit of the applicants/accused;
 - iv) The applicants shall cooperate with the Investigating Officer and attend the concerned police station on every Saturday, between 5 pm to 7 pm, till filing of chargesheet.
5. Anticipatory Bail Application is disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)