

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 508 OF 2015

Shri Dattatray Tatya Khadtare	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Mahadeo A. Choudhary, Advocate, for the applicant.
Mr. Y.M.Nakhwa, APP for the State.
Mr. Sharad Y. Patil, PSI, Azad Maidan Police Station present.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 24th June, 2015.

P.C.

Heard. This is an application under Section 438 of Cr.P.C.
The applicant herein is apprehending his arrest in Crime No.14 of 2015 registered at Azad Maidan Police Station for the offences punishable under Sections 420, 467, 468, 471 of Indian Penal Code.

2. It is the case of the prosecution that the present applicant who happens to be the Director of Shrikrishna Infotech Systems & Services Co-operative Society Ltd. Taluka Mangalveda, District Solapur. The applicant provides temporary service on contract to unemployed educated youths. That he was supplying manpower to Mahatma Gandhi National Rural

Employment Scheme, which is implemented by the District Collector, Solapur. Pursuant to the advertisement, on 21.8.2014, the applicant was given the contract of supplying manpower for effective implementation of the said Scheme.

3. The applicant-Society had entered into an agreement with State Government/District Collector on 15.4.2014. It was agreed that the said agreement would remain in force till end of March 2015. In the meanwhile, the State Government had invited tenders for appointing contractors to supply manpower. The said advertisement was floated on 21.8.2014. It was the contention of the applicant that when the agreement was in force between the Collector and the applicant's , Shreekrishna Society fresh tenders were invited. Being aggrieved, the applicant had filed Writ Petition No.8196 of 2014 in this Court. The said Writ Petition was taken on board for production on 11.9.2014. The petitioner had invited attention of the Hon'ble Division Bench hearing the petition (Coram: A.S.Oka and G.S.Kulkarni, JJ) stating therein that the agreement with the Government remained in force till end of March 2015 and that inspite of it tenders were floated. In view of this, the Hon'ble Division Bench had passed an order that "In the eventuality that the State Government or the Collector desires

to terminate the said agreement we direct that advance notice of two weeks shall be served to the petitioner”.

4. The applicant herein had made a grievance to the Deputy Collector on 26.11.2014, 9.10.2014, by filing an application stating therein that the Office of the Collector is not drawing the salaries of the people so appointed. It was informed to the Deputy Collector that Shri N.D.Gaikwad is seeking illegal gratification and that the employees would be constrained to approach the Anti-Corruption Bureau. Similar grievance was made on 28.11.2014.

5. The first information report is lodged by Shri N.D.Gaikwad on 19.1.2015 alleging therein that the letter filed in Writ Petition No.8196 of 2015 was never received by the office of the Collectorate. It was further submitted that the applicant had misled the Hon'ble High Court. The complainant had also denied his signature on the letter dated 18.4.2014 which was purportedly received by the office of the Collector. On the basis of his report, Crime No. 14 of 2015 is lodged against the applicant for the offences punishable under Sections 420, 467, 468, 471 of Indian Penal Code.

6. It is pertinent to note that till today, no say is filed in Writ Petition No.8196 of 2014 by the District Collector contending therein that

on 18.4.2014, no letter was received by the office of Collector or that the complainant has denied his signature on the said letter. However the said employee just has retaliated the allegations levelled against him by the applicant and initiated criminal action against the present applicant.

7. The learned counsel for the applicant rightly submits that the next scheduled date of hearing was 9.10.2014. However, there is nothing on record to show that it was not received by the office of the Collector.

8. The learned counsel for the applicant rightly submits that since the applicant had filed a complaint to the Collector as well as the Commissioner, supervising the implementation of the scheme against the complainant, that he is being harassed by the office of the Collector by not making timely payments, he would approach the office of the Anti-Corruption Bureau, the complainant has filed the said report.

9. The learned APP upon instructions, submits that till today the complainant has not filed any affidavit in the said Writ Petition denying that the said letter was received by the office of the Collector. Along with the Writ Petition, the applicant had filed several documents to show that the agreement was still in force and therefore the Hon'ble Division Bench

had directed the State Government to issue notice to the applicant in the eventuality that they wish to terminate the agreement. The applicant has not received any notice till today. As on today, the applicant is not supplying any manpower under the said Scheme as another contractor has also been appointed.

10. The Investigating Officer had obtained the specimen signature of Shri N.D.Gaikwad as well as that of the applicant. The report of the handwriting expert is awaited and therefore, it cannot be conclusively said that the applicant had signed the said letter dated 18.4.2014. In view of this, this Court is of the opinion that custodial interrogation is not imperative and the applicant has made out a case for pre-arrest bail.

11. It is clarified that the observations made hereinabove are restricted to the application under Section 438 of Cr.P.C. and shall not be considered in application seeking quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in

the like amount.

(iii) The applicant shall attend the concerned police station as and when called.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)