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

Criminal Application [ABA] No.110 of 2015

(Parag Sahebrao Patil
vs.
The State of Maharashtra, through P.S.O. Rajapeth, District Amravati)

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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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Mr. P.R. Puri, Advocate for the Applicant.
Mr. M.J. Khan, A.P.P. for the Non-Applicant/State.

CORAM : PRASANNA B. VARALE, J.
DATE : APRIL 6, 2015.

Heard.

The applicant apprehending his arrest is before this Court seeking protection in the nature of pre-arrest bail in connection with Crime No.369/2014, registered at Rajapeth Police Station, Amravati for the offences punishable under Sections 420, 468, 471, 408, 406, 120 of the Indian Penal Code.

The report was lodged at the instance of one Shankarsingh Rajput against the present applicant and one Kiran Kimmatkar (Secretary) and the President and other members of the society namely Om Shree Someshwar Maharaj Bahuuddeshiya Shikshan Sanstha, Nagpur. The sum and substance of the report is, the applicant, who had acquaintance with Shankarsingh, approached him and submitted that he is working as C.E.O. in the said institute, receives various benefits from the Central Government, and a post is vacant in the said institute. The applicant submitted that Kiran Kimmatkar (Secretary) and Smt. Sarita Kimmatkar, the President of the institute and mother of Kiran Kimmatkar, are having good term with the applicant and on the recommendation of the applicant, they can secure a job for the daughter of the informant. It is further stated in the report that as this being a good job, they will have to pay an amount of Rs.15.00 lakhs. The applicant then assured that they should not bother about the amount, as he himself also paid Rs.20.00 lakhs. The informant in reply submitted that his daughter is not interested in a job at Nagpur. In spite of this resistance, the applicant was pressing hard and by obtaining cellphone number of the son and daughter of the informant/complainant was in touch with the informant. Sometime in December, 2013, the applicant approached the informant and informed that the institute is opening it's office at Amravati and as the informant was not interested for a job at Nagpur, he is fortunate to have an opportunity of job at Amravati. He then assured the informant that he is vested with all the power by the institute for appointment at Amravati. On 26/12/2013, the applicant again approached the informant and informed that a post is kept vacant for his daughter and though the other interested persons are ready to pay an amount of Rs.10.00 lakhs, because of the intervention of the applicant, the informant may secure job for a lesser amount of Rs.7.00 lakhs. He then stated that apart from the amount of Rs.7.00 lakhs, he will have to deposit an amount of Rs.66,000/- towards training. The informant then handed over Rs.66,000/- and the applicant issued a receipt. The informant then by arranging the funds of Rs.6,98,000/- in response to the message of the applicant visited him near a restaurant at Amravati. The applicant then introduced a person, who was sitting in car, as his father. The informant handed over the amount to the applicant and the applicant handed over order of appointment. The informant noted down the number of the car. After sometime, Kiran Kimmatkar (Secretary) approached the informant and he was introduced by the applicant. Kiran informed that his daughter can resume on 05/05/2014. The applicant informed that the office would start functioning within a short span of 2 to 3 days. The daughter of the informant then joined in the office as A.P.O. Though there were some 2-3 employees in the office, no work was assigned for a considerable period. On an enquiry made to the applicant, the applicant submitted that it will take some time for the project taking a shape. Even after 4-5 months, when there was no progress, an enquiry was made. The applicant then, on the pretext of assembly elections, avoided to assign any job or any salary to the daughter of the informant. In spite of repeated enquiries, when the informant found evasive replies, he along with his son approached the applicant. The Secretary-Kiran Kimmatkar then issued a cheque of amount of Rs.6,50,000/-. After some days, it reveals that the office was locked and when the cheque deposited in the bank, the result was of dishonouring of the cheque. The informant then found that some other unemployed youths were also subjected to similar treatment. Accordingly, the report was lodged.

Learned Counsel Mr. Puri for the applicant vehemently submits that the applicant himself is one of those victims subjected to the mischief played by Kiran Kimmatkar (Secretary) and Sarita Kimmatkar (President). The learned Counsel then submits that the applicant himself paid an amount of Rs.6.00 lakhs to one Rakesh Bodkhe, Mrs. Bodkhe and Kiran Kimmatkar. The learned Counsel then submits that on 16/12/2013, the applicant received the appointment order. The applicant though was awaiting for assignment or job in the office, no assignment was given to the applicant and the applicant himself was finding something fishy in the affairs of the institute. The learned Counsel further submits that the daughter of the informant viz. Minakshi was given an appointment order in the month of January, 2014. It was the submission of the leanred Counsel for the applicant that the applicant played no role except having an acquaintance with Minakshi and the applicant merely introduced Minakshi to Kiran Kimmatkar (Secretary). The learned Counsel further submits that as the applicant was working as C.E.O. in the institute, the amount paid at the instance of informant was accepted by the applicant and the applicant issued a receipt. Thus, it was the submission of the learned Counsel that taking into consideration all these aspects, merely for an acquaintance or introduction to Minakshi, the applicant cannot be held responsible for committing an act under Section 420 of the Indian Penal Code.

The learned Counsel for the applicant then placed heavy reliance on the judgment of the Apex Court in the matter of ***V.P. Shrivastava vs. Indian Explosives Limited and others*** reported in ***(2010) 10 Supreme Court Cases 361.*** With the support of this judgment, the learned Counsel for the applicant submitted that there was no entrustment, which is a basic ingredients. The learned Counsel then submits that the applicant, who was protected by the interim orders of this Court, extended his cooperation to the investigating agency.

Mr. Khan, the learned A.P.P. vehemently opposes the application. The learned A.P.P. made available the papers collected in the process of investigation. I have gone through the material collected by the investigating officer as well as the material placed on record at the instance of the applicant.

As the learned Counsel for the applicant vehemently submits that the applicant himself was the victim and he himself was lodged the report against the Secretary and other office bearer of the institute, I have gone through the copy of the report lodged at the instance of the applicant placed on record. It is interesting to note that the report at the instance of the applicant lodged is on the very day, i.e. on 27/10/2014, on which day, the report against the applicant came to be lodged. The perusal of copy of this report of the applicant shows that the applicant as per his statement gave an amount of Rs.60,000/- to one Rakesh Bodkhe, Mrs. Bodkhe and Kiran Kimmatkar and on 16/12/2013, the appointment order was given to the applicant. It is stated that for a period of one month, no official work was assigned to the applicant. In the report, in the same breath, the applicant then states that it came to his knowledge that there is something fishy in the affairs of the institute, when he collected information and found that same report was lodged against the office bearer in the police station. It will be interesting to note that the applicant is having good academic qualification at his credit. It is not the case that the applicant is an illiterate person. One fails to understand, if the applicant within a very short span of joining the institute came to know that there is something fishy and he himself was a person subjected to mischief of the office bearer of the institute, what prevented the applicant to approach the police machinery immediately. Insofar as the other submission of the learned Counsel for the applicant that the applicant hardly played a role of a person having acquaintance with daughter of the informant and introduced the daughter of the informant to the Secretary and as such no active role is played by the applicant though looks attractive at the first blush, the material collected by the investigating agency shows a different picture. From the statement of Minakshi, the daughter of the informant, what reveals is an interesting story. The applicant and Minakshi were colleagues at some college and had an close acquaintance. The applicant approached the family members of Minakshi and impressed upon them by submitting that he is C.E.O. of the education institute, which is sponsored by the Central Government, and there is a vacant post in the society and the approximate salary of the said post is nearly Rs.35,000/-. He then submits that the Secretary of the institute is his close friend and the mother of the Secretary is the President of the institute. Then he was constantly in touch with the brother of Minakshi and Minakshi herself and on the cell phone, he was asking Minakshi and her brother to make arrangement for the money. The role of the applicant does not stop here. The applicant established contact with Minakshi even on social media with the help of Facebook. He was insisted upon Minakshi to arrange funds for the job. He was actively forwarding the messages on the cellphone of Minakshi and also was in touch with her on Facebook account and all these conducts were in the nature of insisting upon to arrange the funds for the job. Then Minakshi reiterates the other facts, which are in the report lodged by her father.

It is also interesting to note that Minakshi in her statement in an unambiguous words states that the applicant asked her father to arrange for Rs.7.00 lakhs, accepted an amount of Rs.66,000/- as an earnest amount for training, issued a receipt and on 30/12/2013 immediately informed the brother of Minakshi and herself on their respective cellphones to be ready with amount, as he is reaching

Amravati. Thus, the statement reveals that the applicant was not only having a mere acquaintance and his role was not merely introducing Minakshi to the Secretary, but the role of the applicant travelled much beyond than that. The receipt collected by the investigating agency shows that the amount of Rs.60,000/- was accepted on behalf of the institute and the applicant is one of the signatories to the said receipt. The investigation conducted so far reveals that Minakshi is not a solitary member for the mischief of giving assurances to unemployed youths for providing a job and collecting handsome amount from these unemployed youths. The investigating agency will have to conduct a deep probe. The complaint of similar nature is received at other police station also.

Though the learned Counsel Mr. Puri for the applicant placed heavy reliance on the judgment of the Apex Court in the matter of ***V.P. Shrivastava vs. Indian Explosives Limited and others*** reported in ***(2010) 10 Supreme Court Cases 361,*** apart from the fact that the matter before the Apex Court was arising out of a proceeding seeking quashment under Section 482 of the Code of Criminal Procedure, the facts of the present matter also differ with the facts of the matter cited supra. In the said matter, the directors of the another company were involved and the Apex Court observed that there was nothing in the complaint which may even suggest remotely that IEL had entrusted any property to the appellants or that the appellants had dominion over any of the properties of IEL, which they dishonestly converted to their own use. In the present matter, the statement of Minakshi and the report of father of Minakshi clearly indicate that the applicant himself approached the informant, assured them for providing job, accepted handsome amount of Rs.66,000/-, issued a receipt to them, and was in constant touch with Minakshi herself and her brother. Thus, all these facts clearly show a *prima facie* material of the involvement of the applicant. The investigating agency certainly would require to conduct a deep probe to unearth the other links and also to reach such other persons, whose involvement is there. The learned A.P.P. was justified in submitting that for the deep probe, the custodial interrogation of the applicant is must and necessary.

Considering all these aspects, in my opinion, this is not a fit case to grant protection in the nature of pre-arrest bail to the applicant. The application thus being meritless deserves to be rejected and the same is accordingly rejected.

JUDGE

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