

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.2841 OF 2016

Datta s/o Arun Bhagat,
Age : 21 years, Occ. Labourer,
R/o Shendi, Tq. Nagar,
Dist. Ahmednagar

..APPLICANT

VERSUS

The State of Maharashtra
Through Investigation Officer,
Tofkhana Police Station,
Ahmednagar, Tq. & Dist.
Ahmednagar

..RESPONDENT

Mr N.B. Narwade, Advocate to for applicant;
Mr A.B. Girase, Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 12th August, 2016

ORAL ORDER :

Heard.

2. By the present application under section 438 of the Code of Criminal Procedure, the applicant seeks his release on pre-arrest bail, in connection with C.R. No.I-110 of 2016, registered with Tofkhana police station, Dist. Ahmednagar, for offence punishable under section 381 of the Indian Penal Code.

(2)

3. This Court, while dealing with the prayer for pre-arrest bail of the applicant, vide order dated 17th June, 2016, has granted ad interim bail and asked the applicant to respond to the call of the Investigating Officer.

4. Pursuant to the attendance of the applicant, the investigation reflects commission of a cognizable offence by the complainant himself and as such, this Court on 4th August, 2016 ordered the Superintendent of Police, Ahmednagar, to look into the matter.

5. Pursuant to the order dated 4th August, 2016, Mr Girase, learned Public Prosecutor, informs this Court that C.R. No.117 of 2016 is registered against the complainant under the provisions of section 8 of the Prevention of Corruption Act and under section 34 of the Indian Penal Code, as the first information report disclosed involvement of the officials from the Road Transport Department.

6. The statement is accepted.

7. So far as the claim of applicant Datta for grant of pre-arrest bail is concerned, the investigation *prima facie* depicts that the complainant himself is involved in a cognizable offence, resulting into registration of C.R. No.117 of 2016. The mode and manner in which the complainant Nitin Talwar has conducted himself while acting as a conduit between R.T.O. Officials and transporters could be inferred from the investigation papers. The role attributed to the applicant is that of employee, who had

(3)

tried to break up employer - employee relationship between himself and the complainant, which was resisted by the complainant.

8. In the above background, in my opinion, false implication of the applicant, particularly in view of narrations in the first information report, cannot be ruled out. In view thereof, ad interim protection granted to the applicant vide order dated 17th June, 2016 stands confirmed on the same terms.

9. Needless to observe that as the cognizable offence registered against complainant Nitin Talwar discloses involvement of officials from the Road Transport Department from number of districts, the State may consider handing over the investigation to the State C.I.D.

10. Learned Public Prosecutor undertakes to forward copy of this order to the State Government.

With the above observations, Criminal Application stands allowed.

(N.W. SAMBRE, J.)

amj