

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

Criminal Application No. 4655 of 2016

District : Nanded

Kavita w/o. Vijay Shivbhagat,
Age : 35 years,
Occupation : Household,
R/o. Ambedkar Nagar,
Nai Abadi, Nanded,
District : Nanded.

.. Applicant.

versus

The State of Maharashtra,
Through Police Station Officer,
Police Station, Shivajinagar,
Nanded.

.. Respondent.

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Mr. Gajanan G. Kadam, Advocate, for the applicant.

Mr. S.J. Salgare, Addl. Public Prosecutor, for the respondent.

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CORAM : A.M. BADAR, J.

DATE : 16TH SEPTEMBER 2016

ORAL ORDER:

The applicant / accused in Crime No. 209/2016 for offences punishable under Sections 420, 323, 504, read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Prevention and Eradication of Human Sacrifice & Other

Inhuman Evil And Aghori Practices And Black Magic Act, 2013, registered with Police Station, Shivajinagar, Nanded, District Nanded, by this application, is seeking pre-arrest bail.

2. Heard the learned Counsel appearing for the applicant / accused. He submitted that the entire amount of Rs. 1,50,000/-, referred to in the FIR, is paid by the applicant to the informant and supplementary statement of the informant to that effect is recorded by the investigator.

3. The learned Addl. Public Prosecutor opposed the application by contending that the crime in question is serious and another offence with same averments is registered against the present applicant. Therefore, custodial interrogation of the applicant is warranted.

4. Perused the FIR. It is case of the prosecution that by alluring the informant and his associates with an assurance that their money would be doubled by co-accused Babubhai Maharaj, they have been cheated by an amount of Rs. 1,50,000/- by the present applicant.

5. Careful perusal of the FIR nowhere shows that the informant or his associates had paid an amount of Rs. 1,50,000/- either to applicant Kavita

Shivbhagat or to co-accused Babubhai Maharaj. On the contrary, recitals in the FIR are to the effect that Babubhai Maharaj had given a bag full of money to present applicant Kavita Shivbhagat and thereafter two unknown persons came there and took away that money.

6. The learned Addl. Public Prosecutor is not disputing the fact that the supplementary statement of the informant reveals that amount of Rs. 1,50,000/-, referred to in the FIR, has been paid by the applicant to the informant.

7. In that view of the matter, custodial interrogation of the present applicant is not warranted.

8. Hence, I pass the following order :-

(a) The Application is allowed.

(b) The applicant / accused, in the above crime, in the event of her arrest, be released on bail on her executing P.R. Bond in the sum of Rs. 30,000/- and on furnishing one or more solvent sureties of the like amount.

(c) As conditions of this order, the applicant / accused shall abide by the following directions :-

(i) The applicant / accused shall attend concerned Police Station on 22nd September 2016 and 28th September 2016, in between 11.00 a.m. and 01.00 p.m. and thereafter as and when reasonably called by the Investigating Officer during day hours for the purpose of investigation, till filing of charge-sheet, if any. The applicant shall cooperate the Investigating Officer in investigation of the crime in question.

(ii) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(iii) The applicant shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial, in the event of filing charge-sheet, if any, in future against her.

(iv) The applicant shall not repeat commission of similar type of offences in future.

9. The Application stands disposed of in the
aforesaid terms.

(A.M. BADAR)
JUDGE

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