

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6078 OF 2016

Udhav S/o Vitthalrao Shinde,
Age : 54 years, Occu.: Government
Service as Police Inspector with
Caste Verification Committee at
Gadchiroli, Taluka and District :
Gadchiroli, R/o : Adarsh Colony,
Ausa Road, Latur, Taluka and
District : Latur

.. Applicant/
Accused

Vs.

1] The State of Maharashtra
through the Deputy Superintendent
of Police, Anti Corruption Bureau,
Nanded

2] The Superintendent of Police,
Nanded

.. Respondent

Mr. Rajendra S. Deshmukh, Advocate for the applicant
Mr. R.V. Dasalkar, APP for the respondent/State

CORAM : A.S. CHANDURKAR, J.

DATE : 08/12/2016

ORDER :

Heard.

2. The applicant apprehends his arrest in connection with Crime no. 64 of 2016 registered at Biloli Police Station, Tq. Biloli, Dist. Nanded for the

offences punishable under Section 13(1)(e) r/w. 13(2) of the Prevention of Corruption Act, 1988 and under Section 109 of the Indian Penal Code.

3. According to the FIR dated 10/8/2016, the applicant who was holding the post of Police Inspector, was implicated pursuant to a successful trap in which demand for illegal gratification had been made on 04/06/2013. Pursuant thereto, crime no. 6 of 2013 under provisions of Sections 7, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 came to be lodged. In that connection, while searching the premises of the applicant, unaccounted income came to be found. After making an open enquiry, it was found that an amount of Rs.57,21,711/- which was dis-proportionate from known sources of income, was found. On that basis, present crime came to be registered.

4. Shri Deshmukh, learned counsel for the applicant submitted that the amounts alleged to have been seized from the residence of the applicant was supported by due explanation that these amounts had been received pursuant to various legal transactions entered

into by the applicant. It was submitted that pursuant to a transaction entered into by the applicant for sale of joint property, an amount of Rs.14,03,500/- had been found. As the entire amount seized was capable of being duly explained, there was no reason to refuse protection to the applicant. He submitted that all the incriminating material had been seized by the Investigating Officer and there was no reason to grant custodial interrogation. It was also submitted that the figures disclosed in the FIR were highly exaggerated, merely to implicate the applicant in the present crime.

5. The application was opposed by Shri Dasalkar, learned Additional Public Prosecutor by relying upon the police papers. It was submitted that though the applicant was holding the post of Police Inspector and was drawing fixed salary, the documents of title seized from his residence indicated that said assets were beyond his known sources of income. It was submitted that the applicant had been convicted by the Sessions Court in the crime that was registered against him under provisions of the Prevention of Corruption Act, 1988

and, therefore, no case for grant of protection from arrest had been made out. It was submitted that from the material collected by the prosecution, the assets found were about 141.58% higher than the known sources of income. It was therefore submitted that the application was liable to be rejected.

6. I have perused the documents filed on record alongwith the police papers. The same indicate that initially, pursuant to the alleged demand made by the applicant of bribe of Rs.1,00,000/-, a trap was laid, resulting in arrest of the applicant. Crime no.6 of 2013 had been registered against him. It is thereafter that an open enquiry was held and during search of the applicant's premises, it was found that an amount to the tune of Rs.57,21,711/- was found to be dis-proportionate to his known sources of income. Though it is submitted that the applicant had an explanation with regard to presence of cash of Rs.14 lakhs at his residence and that the property was owned by him and his wife, which was purchased from known sources of income, at this stage, said stand cannot be accepted. Though it is true that the sentence in said Anti Corruption Bureau Case

no. 2 of 2014, wherein the applicant has been convicted, has been stayed, considering the gravity of the offence, and the fact that after the open enquiry, it has been found that the assets possessed by the applicant were beyond his known sources of income, I do not find that any case is made out to grant protection to the applicant from his arrest.

7. In view of aforesaid, I am not inclined to favourably consider the application. By clarifying that the observations made in the present order are only for the deciding the present Application, the same stands rejected.

[A.S. CHANDURKAR]
JUDGE

arp/