

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1223 OF 2016

SUKUMAR PATRA

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Ashutosh Kaushik i/b. Kaushik & Co., Advocate for the Applicant.

Mr.S.H.Yadav, APP for the Respondent – State.

Smt.Shobha Kharat, A.P.I., Jogeshwari Police Station, present in court.

CORAM : P N. DESHMUKH, J.

DATE : 22nd JULY 2016.

P.C. :

1 Heard learned counsel for both the sides. This application is filed for grant of anticipatory bail in Crime No.90 of 2016 registered with Jogeshwari Police Station for the offences punishable under Section 370(1) read with Section 34 of Indian Penal Code and Sections 75 and 79 of Juvenile Justice (Care and Protection of Children) Act. Offence is registered on the basis of report lodged by Police Constable Sachin Yerunkar.

2 Learned counsel for applicant submitted that applicant is in no way concerned with the offence, who is sub-contractor of main contractor J Kumar Info Private Limited, and the minor children, if at all are engaged on construction work and on its site, they are engaged by the Supervisor, who is stated to be granted regular bail. It is further contended that all the minor children involved in this crime are now given back in the custody of their respective parents, and has relied upon affidavits of one Ranjit Das, Sujit Halder, and Sukhen Halder contending that none of minors were engaged in construction work. It is also contended that no role can be attributed to the applicant in the present crime as according to the affidavits, which are of fathers of three children, they on their own along with their family members arrived in Mumbai sometime in May 2016 and applicant is in no way concerned with them.

3 It is, therefore, prayed that application be allowed by directing applicant to mark presence with Investigating Officer for facilitating further investigation.

4 Learned APP opposed the application contending that applicant's involvement is fully established as one of the conspirators in engaging minor children on construction site. It is also contended that affidavits referred above are not convincing, in view of statements of deponents of these affidavits, recorded subsequent to the dates of affidavits, wherein they clearly

establish involvement of applicant. It is, therefore, prayed that application be rejected as investigation is in progress.

5 Perused the FIR where from it reveals that on 11th June 2016, complainant – a police officer – along with other police staff, on information, arranged a trap in the afternoon at Pioneer Company Gate No.3, Subhashnagar, Jogeshwari (East), Mumbai, where they noted that minor children were engaged in construction of road. One person was present who introduced himself as supervisor and disclosed his name as Deepak Kumar Mallik stated that he was working with J Kumar Info Private Limited Company, of which applicant is a Contractor. The police officer present, then, enquired from the minor boys who were present there, who stated that applicant had brought all of them from their native place situated in Murshidabad, West Bengal, for work, and is extracting work from them on construction site from morning to evening and against it they are provided two meals in a day and place for stay. At that time, on enquiry made about applicant, it was informed that he was not available since he had gone to West Bengal.

6 Considering contents of FIR it cannot be said that no role is attributed to applicant. Moreover, affidavits relied on behalf of applicant do not appear to be truthful for the reason that they are in English language and are totally in contradiction to the

statements of deponents which are recorded subsequent to the affidavits which are dated 23rd June 2016, while the affidavits are dated 18th June 2016, wherein applicant's involvement is clearly established.

7 In that view of the matter and as investigation is in progress, though supervisor of applicant is stated to be released on bail, as he was released on regular bail by Sessions court.

8 Application is devoid of merits and is rejected.

(P. N. DESHMUKH, J.)