

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1015 OF 2017
WITH
CRIMINAL APPLICATION NO.560 OF 2017

Vishwanath Dnyandev Ghanwat & Anr ...Applicants

Versus

The State of Maharashtra ...Respondent

Mr. A.P. Mundargi, Senior Counsel, i/b Mr. Rahul K.
Dhaygude, for the Applicant.

Mr. A.M. Adgule, for the Intervener.

Ms. P.P. Shinde, APP for the State/Respondent.

CORAM: T.V. NALAWADE, J

DATED: 10th August 2017

PC:-

1. The Application is filed by two Officers like Vishwanath Ghanwat, Police Inspector and Kuldip Kamble, Police Naik. Ghanwat is arrested and so the Application for anticipatory bail by Applicant no.2 Kamble only needs to be decided. Both sides are heard.

2. The papers of investigation were made available for perusal of this Court. The submissions made and the record supplied by learned APP show that Local Crime

Branch ('LCB', for short), Police of Sangli arrested one Mulla on 12th March 2016. He was a thief and during interrogation he disclosed that he had committed theft of cash amount of Rs.3.07 crore, and it was kept by him with his wife. This amount was taken over by LCB police. API Chandanshive started making the investigation of that case. Mulla informed that he had committed theft from a place from Warnanagar, District Kolhapur and the place is situated within a campus of one education institution. LCB police took Mulla with them and he showed the place from where the amount was stolen by him. At that place one locker was found and it was half opened in condition. At that place, there was cash amount of Rs.3.51 lakh. This amount was taken over by police. The locker was not completely opened but before the opening it also, the cash amount which was present inside of the locker was visible. As the locker was not opened, Zunjar Sarnaubat, who is claiming to be owner of that amount presumed that the cash amount which was recovered at the instance of Mulla and aforesaid cash amount was only stolen and so he gave report on 16th March 2016 to the effect that his amount of Rs.3.11 crore was stolen and Crime no.41 of 2016 came to be registered on the basis of that report in Kodoli Police Station, Kolhapur. Mulla was shown to be arrested in that crime as he was initially arrested under Section 41 of Criminal Procedure Code by LCB police, Sangli.

3. Sarnaubat filed two more reports and on the basis of these reports Crime nos.48 of 2017 and 49 of 2017 came to

be registered. Police had sealed the place where the cash was found. The locker was opened and from that the amount of Rs.1.31 crores was recovered. The contention of complainant Sarnaubat is that he had kept amount of Rs.14 crore at that place and as per the record of police the amount of Rs.4,43,43,000/- is only shown to be recovered. It is his contention that he was not able to take decision with regard to the other amount which was not there as was in severe shock due to this incident. It is his contention that aforesaid Mulla then got bail and he made enquiry with Mulla. It is his contention that Mulla disclosed that on different dates he was taken to spot where the cash was kept and police had taken away that amount. Due to this information Sarnaubat gave first report against police officers on 13th March 2016 and that was against Chandanshive, Dipak Patil etc. He realised that amount was virtually stolen by police from Sangli. He realised that on 13th March 2016 police had taken away that amount and on 15th March 2016 at about 11 am other police officers like Sharad Kurpalkar went to the spot and they created the show that some amount fell in the room where theft was committed and that amount of Rs.3.51 lakh was shown to be recovered. On the second report, Crime no.49 of 2017 came to be registered. The name of present Applicant Kuldip Kamble, Police Naik was taken as he was also involved in the crime.

4. The learned APP submitted that during investigation of Crime no.49 of 2017, record of call details of mobile of

Kamble is collected and it shows that he had left Sangli on 15th March 2016 at 8.00 am and he had reached the place where the cash was kept at 9.30 am. The learned APP submitted that on that date the panchnama was shown to be prepared between 11.30 am to 3.00 pm. He showed to this Court some record like statements of some Police Officers with whom present Applicant Kamble was working. The statements of said Police Officers who were present in the team, who had gone to the spot with Mulla show that before reaching the spot by them, present Applicant had reached there with Ghanwat and Chandanshive and Dipak Patil. The witnesses have expressed that the mischief was done probably before they reached the place on 15th March 2016. As per the record, the present Applicant had already reached the spot when the accused Mulla was to show the spot to the police and he was taken subsequently to the spot as per the statement. Copy of police statement of Mulla is there. He was arrested on 12th March 2016 and his statement under Section 27 was recorded on 15th March 2016 between 11.30 am and 11.40 am. The statement was given in Sangli but the panchnama of taking over the cash of Rs.3.51 lakh was completed between 11.40 am and 15.00 pm on that date. This panchnama also shows that there was an attempt to break open the locker and due to that the locker was in partly open condition and the inside was visible.

5. It appears that most of the Police Officers involved in the offences are arrested as they surrendered when they

failed to get relief of anticipatory bail. The case of Applicant Kamble cannot be treated on different footing. The submissions made show that even when there is allegation that the amount of Rs.10 crores was stolen, as yet nothing is shown to be recovered from the arrested Police Officers. The record sufficient to infer that there is something fishy. There is clear possibility that Sarnaubat, the first informant, was hesitant initially to make the complaint as there is possibility that he was not in a position to give the source of the money. The learned APP submitted that recently, in March 2017 Sarnaubat filed returns of income and in that he has shown that amount. That is again the matter of investigation. It can be said that there is possibility of involvement of black money in the matter. Investigation needs to be made from all the angles. This Court hopes that without getting influenced the investigation agency will conduct the investigation and find out even the source from where the money had come. It is necessary to observe that the money also needs to be recovered and for that thorough investigation needs to be made. Such investigation is possible only if there is custodial interrogation. The Police Officers are expected to act with utmost honesty. In the present matter, there is an opportunity to investigating officer to prove honesty, sincerity and dedication. This Court holds that it is not fit case to use the discretion in favour of the Applicant no.2 Kuldip Kamble.

6. In the result, the Anticipatory Bail Application is rejected. Ad-interim relief stands vacated.

(T. V. NALAWADE, J.)