

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3188 OF 2018

Preetam Laxman Athawale, Age 71 years,  
Occ.Retired, R/o.16/B-4, Renuka Building,  
Shanti Sagar Society, Ramabai Colony,  
Ghatkopar (E), Mumbai-400 075.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Madhukar P. Dalvi for applicant.

Mr.A.R.Kapadnis, APP, for State.

Mr.Subhash Rane, PSI, Vikroli Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 6<sup>th</sup> December 2018

PC :

1. This is an application for bail in connection with CR No.226 of 2018 registered with Vikroli Police Station, Mumbai. The offences are registered under Section 420 r/w 34 of Indian Penal Code. The applicant is arrested on 19<sup>th</sup> October 2018. The FIR was lodged on 13<sup>th</sup> July 2018.

2. The case of prosecution is that the accused Yallappa Kunchikarve is distant relative of the complainant. In April-2017 he informed the complainant that person named Angad Kamble who is acquainted with one Pritam Aathavale having his acquaintance with higher officials in the Government offices. He further informed that Pritam Aathavale helps in getting employment with the help of his contacts. However, for getting such employment, the complainant will have to spend money. The complainant then informed about the said fact to his brother and since his nephew was to be employed,

they had agreed to approach said persons for employment. In April 2017 the complainant, his brother and Yallapa Kunchikarve met the applicant-accused. Angad Kamble informed them that the applicant would arrange the employment and Rs.5,00,000/- will have to be spent for the same. They were also told to deposit advance money. At that time the applicant had also assured that government job would be given to the nephew of complainant. On 25<sup>th</sup> May 2017 the complainant approached Yellappa. At that time Angad Kamble was also present at his house. The complainant and his brother handed over Rs.4,00,000/- to Angad Kamble in the presence of Yellappa. Both of them had assured that they will fulfill the promise. They also executed writing from Angad Kamble with reference to receipt of amount. However, the employment was not provided and thereby the accused had cheated the complainant and others. Hence, the FIR was lodged. The contention of the applicant is that he is in custody from the date of arrest and his custody is not required. He would be completing fifty days in custody. The amount was handed over to the co-accused. It is submitted that the applicant is senior citizen aged 71 years.

3. Learned APP submitted that specific role has been attributed to the applicant. During the course of investigation it was revealed that Rs.2,00,000/- was given to the applicant by co-accused. The applicant in return had handed over cheque in favour of Angad Kamble in the sum of Rs.2,00,000/-. The advocate for applicant, however, pointed out that the complaint was lodged by Angad Kamble wherein it was stated that he had received entire amount and he had not shared the same with anybody.

4. Be that as it may, the applicant is 71 years old person. He is in custody from the date of arrest. The co-accused are also arrested and investigating machinery has not been able to recover any amount. The applicant is in judicial custody. Although charge sheet is not filed, apparently further detention of the applicant is not necessary for the purpose of investigation. The applicant is in custody for almost 50 days.

5. Considering aforesaid circumstances, I pass following order :

#### **ORDER**

- (i) Criminal Bail Application No.3188 of 2018 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with CR No.226 of 2018 registered with Vikroli Police Station, the applicant be released on bail on furnishing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend the Trial Court on the date of hearing regularly, unless exempted by the Trial Court;
- (iv) The applicant is permitted to furnish cash security in the sum of Rs.20,000/- for a period of four weeks.

(PRAKASH D. NAIK, J.)

MST