

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 545 OF 2019

Arvind Annappa Dharngutikar	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. A.P. Mundargi, Senior Advocate i/b Mr. Jayant Bardeskar for the Applicant.

Mr. S.R. Agarkar, A.P.P. for the Respondent – State.

Mr. Girish S. Gode, Dy. S.P. ACB, Kolhapur, present.

CORAM : P.N. DESHMUKH, J.

DATED : 13th MARCH, 2019.

P.C. :

1 Heard Learned Counsel for the Applicant and learned A.P.P. Mr. Girish S. Gode, Investigating Officer is present.

2 This application is filed by one of the co-accused in Crime No.24 of 2019 registered with Shivaji Nagar Police Station, Ichalkaranji, for the offence punishable under Section 7 of the Prevention of Corruption Act.

3 Learned Counsel for the Applicant submits that Applicant was in Government service working as Block Development Officer and as such has no concerned with complainant who has obtained contract for providing street light to Pattan Kadoli Grampanchayat and has completed said work in the year 2017. However, was not paid bill amount to

Rs.1,55,400/-. Learned Counsel submits that according to the complaint, complainant had approached co-accused S.P. Kamble and applicant for obtaining payment of his bill amount when applicant is stated to have demanded amount of Rs.25,000/- as a bribe for release of complainant's bill and some time in December 2018, after making demand as aforesaid, accepted Rs.10,000/- on the same day. It is submitted that except for such allegations in the report, there is nothing on record establishing involvement of applicant more particularly in view of the fact that though there is some reference in para 11 of the impugned order with reference verification panchnama dated 09.01.2019, F.I.R. lodged by deputy Superintendent of Police, A.C.B. dated 15.01.2019 is silent about any such verification panchnama in respect of applicant though there is reference to verification panchnama dated 09.01.2019 in respect of co-accused. It is further contended that in fact much earlier to alleged demand and acceptance of Rs.10,000/- by applicant in December 2018, upon a complaint made by complainant to the authorities, Deputy Chief Executive Officer, Zilla Parishad Kolhapur, on 23.10.2018 itself had issued instructions to applicant to look into the matter and do the needful under intimation to said authority.

4 It is further pointed out that in reply to said communication, applicant issued directions to the Sarpanch, Grampanchayat Pattan Kadoli,

Taluka Hatkalangale, instructing to look into the complainant's bill on priority and to submit report. Said communication is dated 19.11.2018. It is, therefore, contended that there is nothing to establish involvement of applicant in the present crime, much less of his demand and acceptance of bribe of Rs.10,000/-.

5 At this stage learned A.P.P. on instructions, submits that there is no reference to relevant fact with regard to verification panchnama of 08.01.2019 of applicant in complaint dated 15.01.2019, filed on record by applicant. Learned Counsel for applicant submits that complaint on record on page 21 is typed copy of printed F.I.R. Admittedly even in the printed F.I.R., there is no reference of verification panchnama dated 09.01.2019 involving applicant. Learned A.P.P. however had tendered at bar original complaint which on page 3 thereof, refers to applicant's acceptance of Rs.10,000/- from the complainant. Learned Counsel for the parties admits that there is no reference of said verification panchnama of applicant who have accepted Rs.10,000/- from the complainant in the printed F.I.R. To a query to Investigating Officer as to why said fact is not mentioned in printed F.I.R., it is stated that in the printed F.I.R. gist of complaint is required to be mentioned in 500 words. In that view of the matter, even on perusal of original complaint tendered at bar by learned A.P.P., when perused that refers to the alleged acceptance of Rs.10,000/- by applicant of

which no report is lodged by complainant but has stated in his report dated 15.01.2019 that in December 2018, when he had met applicant for his bill, applicant has demanded Rs.25,000/- and accepted Rs.10,000/- out of said amount on the same day.

6 On perusal of documents filed in support of Application in fact substantiate applicant's case in as much as document at Exh.C is a letter by Dy. C.E.O. Zilla Parishad Kolhapur addressed to applicant who was posted as P.D.O. The letter is dated 23.10.2018 wherein applicant was directed to look into the complaint made by complainant for his bill. In reply to this letter, applicant has issued directions to Sarpanch as well as Rural Development Officer, Grampanchayat, to look into the complainant's bill on priority with intimation to him. It is material to note that said communication is dated 19.11.2018 which thus established that even prior to lodging of report by complainant, wherein he has alleged that in December 2018, applicant demanded any bribe amount or had accepted part of the same, applicant is found to have taken steps by issuing directions to concern to pay the bill.

7 Having considered facts as aforesaid, application is liable to be allowed by imposing conditions to applicant since investigation is said to be in progress as per following order:-

ORDER

(i) Applicant shall be released on bail on executing P.R. Bond in the sum of Rs.25,000/- (Twenty Five Thousand only) with one surety in the like amount;

(ii) Applicant on being released on bail, shall attend Investigating Officer on 18.03.2019 between 10.00 a.m. to 01.00 p.m. and thereafter as and when called till the filing of charge-sheet and shall not tamper with investigation or witnesses.

(P.N. DESHMUKH, J.)