

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Criminal Application (ABA) No. 106 of 2019
Subhash Rambhau Kosalge

Vs.

State of Mah. Through P.S. Mahagaon Dist. Yavatmal & one Anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. Radhika Raskar, Advocate for applicant.
Mr. M.J. Khan, APP for non-applicant No.1
Mr. S.D. Dharaskar, Advocate for non-applicant No.2.

CORAM : MANISH PITALE, J.

DATED : JUNE 20, 2019

The applicant herein is one of the three accused persons in FIR dated 05/01/2019, for the offence punishable under Section 420 of the Indian Penal Code. The other two accused are the wife and the son of the present applicant.

2. The grievance sought to be raised by the complainant in the present matter against the accused persons is that they took huge amount of money from him on the promise of providing employment in an institution run by a Society of which the applicant is Secretary. It is claimed that although huge amount was paid to the accused, no such appointment was forthcoming. On this basis, it is claimed that the complainant has been cheated.

3. The learned counsel appearing for the applicant invited attention of this Court to the complaint lodged by the wife of the applicant on 23/11/2018, before the police stating that the complainant had been working as Librarian in an institution run by a Society in which the wife of the applicant was Secretary and that the complainant had voluntarily resigned from the said post. It is stated in the said complaint that thereafter the complainant had been threatening the applicant and his wife that he would involve them in false criminal cases and that he had been using abusive language against them. No cognizance of the said complaint was taken by the police. In this backdrop, it is pointed out that the report lodged by the complainant, leading to registration of FIR dated 05/1/2019 was nothing but a counter blast and an attempt to set criminal law in motion, to pressurize the applicant and other accused persons.

4. The said aspect was noted by this Court while issuing notice on 22/02/2019 and granting interim protection to the applicant. The operative part of the said order reads as follows.

“i. Ad-interim anticipatory bail is granted.

ii. In the event of arrest of the applicant in Crime No. 14/2019 registered with Police Station Mahagaon, Dist. Yavatmal, the applicant be released on bail on furnishing PR

bond in the sum of Rs.25,000/- with one solvent surety in like amount on condition that the applicant shall attend Police Station, Mahagaon, District Yavatmal once in a week i.e. on every Sunday in between 10.00 a.m. to 5.00 p.m. and shall co-operate the Investigating Agency.”

5. In the reply filed on behalf of non-applicant No.1 State it has been stated that the custody of the applicant is required because during investigation certain material has come on record to indicate that there is mis-appropriation of funds and since the school run by the Society in which the applicant is Secretary is an aided school, there appears to be mis-appropriation of State funds. But, the said aspect has nothing to do with the oral report filed by the complainant herein. Therefore, the said aspect would have no relevance for claiming custody of the applicant.

6. The learned counsel appearing for the non-applicant No.2 complainant stated that the complainant had been duped by the accused, including the applicant, by taking huge amount of money and not providing employment.

7. A perusal of material on record shows that the wife of the applicant had indeed approached the police as far back on 23/11/2018, pointing out that the complainant herein had been threatening her and her husband (applicant herein) of lodging false criminal

cases against them. Although, no cognizance was taken of the said complaint, at this stage, it is relevant material to indicate that perhaps the report lodged by the complainant leading to registration of FIR dated 05/1/2019 was a counter blast against the complainant. The letter of resignation said to have been submitted by the complainant has also been placed on record, wherein it is specifically stated that the complainant was resigning from his job as Librarian voluntarily.

8. The said material available on record demonstrates that the custody of the applicant would not be required, so long as he co-operates with the investigation and abides by the direction given by this Court in interim order dated 22/02/2019.

9. In view of the above, the present application is allowed.

10. The applicant is granted anticipatory bail on the conditions on which the ad-interim anticipatory bail was granted by this Court by order dated 22/02/2019. Accordingly, the applicant shall continue to co-operate with the investigating agency and he shall continue to report to the Police Station Mahagaon Dist. Yavatmal once in a week i.e. on every Sunday between 10.00 a.m. to 5.00 p.m., till filing of chargesheet.

11. Application is allowed in above terms.

JUDGE

MP Deshpande