

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.789 OF 2020

Sonal Sunil Rasal

..APPLICANT

-VERSUS-

The State of Maharashtra

..RESPONDENT

...

Mr.Ruchir S. Wani, Advocate for applicant.
Mr.N.T. Bhagat, APP for respondent/State

...
CORAM : V.L.ACHLIYA,J.
DATE : 29.10.2020

ORAL ORDER :

. The applicant apprehending arrest in Crime No.145/2020 registered with Shirpur City Police Station, Dist. Dhule for committing the offences punishable under sections 384, 385 r/w 34 of the Indian Penal Code(IPC) has preferred this application seeking pre-arrest bail.

2. Heard learned counsel for the applicant, learned APP representing the respondent/State and perused the first information report and the papers of investigation.

3. In brief, it is the contention of learned counsel for the applicant that the

applicant is innocent and falsely implicated in the case at the instance of the informant to pressurize the applicant not to take action against him. It is submitted that the applicant is working as the President of Nashik Division of Human Protection of Human Rights Council of India. The Organization of the applicant received complaint from Suresh Yuvraj Patil i.e. the accused no.1. In the complaint, the accused no.1 has alleged that the Ration Shop Keepers in his village are not distributing the subsidized food grains to the poor people from their Ration Shops and keeping their shops open for 2-3 days in a month. The complainant i.e. Suresh Patil urged their Organization to inspect the Fair Price Shops and ensure that the poor people in the village will regularly get food grains from the Ration shops run by the Shop Keepers. In order to verify the factual aspect, the applicant visited the shop premises. In order to prevent the applicant from taking action the false complaint has been lodged. By referring the allegations made in the complaint, learned counsel submits that even if the allegations made in the first information report are taken at their face value and presumed to be correct,

still it make out no case so as to attract the offence U/Sec. 384 of the IPC against the applicant. It is submitted that as per the complaint filed no amount has been paid to the applicant. The amount as alleged has been paid to accused no.1. In that view, at the most the offence U/Sec. 385 of IPC can be attracted against the applicant, which is bailable.

4. On the other hand, learned APP opposed the application with contention that there is strong prima facie case to connect the applicant with the offences registered against her and the co-accused. It is submitted that besides the informant, there are number of eye witnesses to the incident. The call data record collected by the Investigating Officer establishes the presence of the applicant on the spot of incident. It is submitted that the applicant along with co-accused in furtherance of their common intention to extort the money contacted the informant. In the first round the accused no.1 who associated with the applicant and other accused extorted Rs.10,000/- from the informant under the pretext to avoid the action against him by

giving threats that the special squad formed by the Food and Civil Supply Department is going to visit his shop. After extorting Rs.10,000/- by the accused no.1 putting under threat of action against him, the applicant and her three associates came to his shop in Swift Car. The accused no.1 was also present. The applicant made phone call to informant and asked him to come to his shop. It was represented to informant that applicant and other persons accompanied are members of squad formed by the Hon'ble Minister for Food and Civil Supply to inspect the shop of the informant and to take action against him. They pretended that they are acting under official capacity to conduct the inspection. They demanded the record and POS Machine and gave threat to seal the premises and demanded of Rs.2 Lacs to prevent the sealing of shop of informant. When the informant asked the applicant to produce the identity cards and authority given to them to inspect the premises the applicant and co-accused refused to show their identity cards and authority given to inspect the premises. It is submitted that the informant then contacted the officials from the Food and Civil Supply to inquire about the squad sent to his shop

for inspection. The officials told him that no such squad has been sent for inspection and asked him to report the matter to the Police. As soon as the applicant and person accompanied with him noticed the informant talking with officials of the Food and Civil Supplies Department, they ran away in Swift Car in which they came to his shop.

5. In the background of overall facts of the case, learned APP submits that the allegations made in the first information report are prima facie sufficient to connect the applicant with offences registered against her. The offence has been committed by the accused persons in furtherance of their common intention. The involvement of other persons to be ascertained from the applicant. The involvement of the applicant in commission of offences of similar in nature cannot be ruled out. There is every possibility that the applicant may be running racket to indulge in to commission of such offences. The possibility of preparing false documents showing he member of Human Right Council cannot be ruled out. In order to conduct proper investigation, the custodial interrogation of the applicant is necessary

and urged to reject the application.

6. I have carefully considered the submissions advanced in the light of nature of accusations made against the applicant and further perused the papers of investigation. In my view, there is strong prima facie case to connect the applicant with the offences registered against her. It appears from the allegations made in the first information report supported with the evidence collected by the Investigating Officer that the incident in question was outcome of well planned conspiracy hatched by the applicant and co-accused in furtherance of their common intention to extort the money from the Fair Price Shop Keepers by putting them under threat to taking action and causing threat to seal their premises. The facts of case raises serious doubts as to existence of Organization recognized by the Central Government of which the applicant claims to be President of Nashik Division. The facts of the case and the nature of accusation made against her and evidence collected by Investigating Officer rules out, the applicant being innocent and falsely implicated in the case. There was no reason

for the applicant to visit the shop of informant and inspect the record of her own. She holds no authority under law to conduct such search and inspection. The act attributed to her and co-accused make a strong case of running the racket of extortion of money on the part of applicant by putting the persons under threat of action or to seal their premises.

7. The contention of learned counsel for the applicant that no offence U/Sec. 384 of IPC is attracted against the applicant cannot be accepted. The applicant is charged with the offence U/Sec. 384, 385 r/w section 34 of IPC. The act in question alleged to have been committed in furtherance of common intention of the accused persons. The purpose of grant of protection U/Sec. 438 of Cr.P.C. is to protect the innocent person arrested, humiliated and harassed for no offences committed on his/her part. No such circumstance exists in the case to extend the protection of law to the applicant. On the contrary, the accusations made against the applicant are serious in nature and requires thorough investigation. The grant of protection to an applicant would stall the

ongoing investigation. I am therefore not inclined to entertain the application. Accordingly, the application is rejected.

8. It is clarified that the observation made as above are prima facie observation made for the limited purpose of deciding the present application and the same shall not be treated as observations made as to the merit of the case of the prosecution against the applicant.

[V.L.ACHLIYA]
JUDGE

SGA