

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

LD-VC ABA/782/2020

(Manohar s/o. Laxmanrao Paunkar .vs. State)

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

Court's or Judge's

Mr.Anand Jaiswal, learned Senior Counsel assisted by
Mr.A.R.Wagh, learned Counsel for the applicant.
Mr.C.A.Lokhande, learned Additional Public Prosecutor for non-
applicant/State.
Mr.Anil Mardikar, learned Senior Counsel assisted by
Mr.V.R.Deshpande, learned Counsel for the applicant [(APPP)
No.783 of 2020].

CORAM : M. G. GIRATKAR, J.

DATE : 17.7.2020.

Heard Mr.Anand Jaiswal, learned Senior Counsel for the applicant, Mr.C.A.Lokhande, learned Additional Public Prosecutor for non-applicant/State and Mr.Anil Mardikar, learned Senior Counsel for the applicant on the application for grant of permission to assist the prosecution. The hearing was conducted through Video Conferencing and the learned Counsel for the respective parties agreed that the audio and visual quality was proper.

Criminal Application (APPP) No.783 of 2020

Heard Mr.Anil Mardikar, learned Senior Counsel for the applicant.

Looking to the grounds mentioned therein, the application is allowed. Permission is granted to assist the prosecution.

Criminal Application (ABA) No.782 of 2020

Heard Mr.Anand Jaiswal, learned Senior Counsel for the applicant, Mr.C.A.Lokhande, learned Additional Public Prosecutor for non-applicant/State and Mr.Anil Mardikar, learned Senior Counsel for the applicant in Criminal Application (ABA) No.783 of 2020.

This is an application for grant of anticipatory bail under Section 438 of the Code of Criminal Procedure. The applicant is President of the Chandrapur District Central Co-operative Bank. One of the Directors namely Sandeep Wamanrao Gaddamwar lodged report in Police Station, Ram Nagar, Chandrapur alleging that the applicant being President of Chandrapur District Central Co-operative Bank and Mr.S.N.Dubey being the Chief Executive Officer illegally appointed 24 employees on compassionate ground within a period of two months. It is alleged in the report that the retired employees, who are retired on medical ground should have been referred for medical examination to Medical Board, but they were not examined by the Medical Board and only on the basis of Certificates issued by the Civil Surgeon, their

wards are appointed on compassionate ground. It is also alleged that the Certificates issued by the Civil Surgeon appear to be forged. It is alleged that the applicant appointed all 24 employees by getting huge amount from them.

An application for grant of Anticipatory bail was moved by the applicant before the Sessions Court. The Sessions Court rejected the application on 9.7.2020. Hence, the applicant is before this Court.

Mr.Anand Jaiswal, learned Senior Counsel has submitted that there were meetings of Directors of Chandrapur District Central Co-operative Bank and in the meetings dt.20.8.2019 and 11.9.2019, all the Directors unanimously agreed to appoint wards of the employees who were not found fit to do their respective duties. Learned Senior Counsel has submitted that, after obtaining Certificates from Civil Surgeon, the wards of employees were legally appointed.

Mr.Anand Jaiswal, learned Senior Counsel has submitted that there is no loss to the bank. He has pointed out para no.7 of the application and submitted that the bank was paying salary from Rs.55,000/- p.m. to Rs.75,000/- p.m. to the retired employees on medical grounds and now the newly appointed employees are getting only Rs.6,000/- p.m. to Rs.6,800/- p.m. Therefore, there is no loss to the bank. At last, the learned Senior Counsel

submitted that custody of applicant is not required and therefore, he has prayed to grant anticipatory bail to the applicant.

Mr.C.A.Lokhande, learned Additional Public Prosecutor for non-applicant/State assisted by Mr.Anil Mardikar, learned Senior Counsel has pointed out all the Certificates and the applications made by the employees requesting the bank to appoint their wards on compassionate ground. He has submitted that all the Certificates of Civil Surgeons are not in the prescribed format. What type of medical treatments were given are not shown in the certificate. The Certificates only show 'unfit for duty'. There is nothing on record to show that any of the retired employee was earlier getting any treatment for the ailment. Nothing is on record to show that the retired employees have obtained medical allowances for their disease. Learned Senior Counsel has submitted that custodial interrogation of the applicant is required to unearth the huge amount taken by him from the respective employees. At last, it is prayed to reject the application.

I have gone through the record. From the perusal of the application filed by the respective employees, it appears that those were filed from the month of August to October and their wards are appointed during the period of two months. The application of retired employee Mr.N.V.Wandhare shows that he applied to the

bank on 9.8.2019. In his application, he has stated that he is not keeping well and therefore, on his place, his ward/son be appointed on compassionate ground. On the very same day, the C.E.O. of the bank issued letter to the Civil Surgeon, Chandrapur for examination of said Wandhare. On 13.8.2019, Certificate is issued. On the same day, Wandhare submitted Certificate to the bank. The Certificate filed on record does not show any type of examination by the Civil Surgeon about ill-health of Wandhare. In the Certificate, it is mentioned that Wandhare is suffering from paralysis. Whereas the application of Wandhare dt.9.8.2019 to the bank does not show any such type of disease. He has only stated in his application that he is not keeping well. If really he was suffering from paralysis, he could have stated about that in his application dt.9.8.2019. It appears from the application filed by another employee Prabhakar Thengne that he moved the application to the bank on 31.8.2019 along with Certificate dt.28.8.2019. This Certificate dt.28.8.2019 issued by the Civil Surgeon, Chandrapur shows that Prabhakar was suffering from acute kidney failure. All the Certificates issued by the Civil Surgeon, Chandrapur do not show that those employees were taking any medical treatment. Not a single O.P.D. card is filed on record. Nothing is on record to show that any of the employees were

getting any medical treatment from any of the Medical Officer or doctor. The learned Sessions Court, while deciding the anticipatory bail application, perused the case diary and from the perusal of case diary, the learned Sessions Court has recorded that 24 employees were suffering from diseases. Those diseases appear to be near about the same diseases. Para no.7 of the order of learned Sessions Judge is re-produced below :

“7. I have perused the Medical Certificates filed along with case diary and the application. Upon perusal of the same, it reveals that, since 13.08.2019 to 15.10.2019, 24 employees of CDCC Bank obtained certificates regarding their illness and sought their retirement on the ground of ailment. They prayed to appoint their wards on Anukampa basis and as such they were appointed. Upon perusal of medical certificates, following employees shown to be suffering from following disease.

Sr. No.	Name of employee	Symptoms	Date of issuance
1.	Nagorao V. Wandhare	Paralysis of right hand	13.08.2019
2.	Varsha S. Mankar	Breast cancer	05.09.2019
3.	Prabhakar D. Thengane	Acute kidney failure	28.08.2019
4.	Ramesh S. Dhote	Brain tumor	15.10.2019
5.	Arun B. Lande	Acute renal failure	17.10.2019
6.	Subhash V. Kundojwar	Acute brain tumor	17.10.2019
7.	Umakant G. Wararkar	Acute brain tumor	06.09.2019
8.	Sonba S. Parkhi	Ademo carcinoma right lung	13.08.2019
9.	Donduji D. Pipare	Acute renal failure	14.10.2019
10.	Anil G. Korkekar	Acute stomach cancer	15.10.2019
11.	Namdeo R. Tikat	Acute renal failure	13.08.2019
12.	Sunita B. Meshram	Breast cancer	17.10.2019
13.	Ramchandra M. Chaudhari	Blood cancer	17.10.2019
14.	Gopinath T. Bhoyar	Brain tumor	15.10.2019.
15.	Shamsundar N. Thakare	Acute renal failure	24.10.2019.

16.Arvind Namdeo Dhawas	Acute renal failure	28.08.2019
17.Siddharth R. Urade	Acute renal failure	07.09.2019
18.Bandu B. Dewadkar	Acute renal failure	14.10.2019
19.Raghuvir Singh	Hyper tension	15.02.2018
20.Ramesh K. Gore	Acute renal failure	16.08.2019
21.Vijay M. Deshkar	Ca oesphagous section in liver	19.08.2019
22.Mahadeo V. Karmarkar	Acute renal failure	06.09.2019
23.Suresh Kannake	Brain tumor	04.09.2019
24.Sudhakar Chaudhari	Acute renal failure	22.08.2019

It is to be noted that, the alleged first resolution is came to be passed on 30.07.2019 and on next day 6 employees' wards were appointed on Anukampa basis. Surprisingly, within a span of two months, 24 employees of CDCC Bank fell seriously ill and certificates to that effect came to be issued without support of any medical documents. All these things had taken place within short span of time, which smells something fishy in the entire appointment proceedings. Prima facie, it reveals that, there is manipulation of huge amount in the entire proceedings. Thus, a fair and detail investigation needs to be done so as to find out truth behind the matter. Therefore, at this juncture involvement of the applicant in the aforesaid crime made out by the prosecution. Thus, the applicant failed to make out the case for releasing him on anticipatory bail....."

From the perusal of the Certificates issued by the Civil Surgeon, Chandrapur, it is clear that only two women employees opted for voluntary retirement on medical ground and both women employees were shown suffering from breast cancer. It is surprising to note that both women employees were having similar disease. Five retired employees were shown suffering from brain tumour. Out of 24 employees, ten employees were shown suffering from acute renal

failure. Two employees were suffering from brain tumor and two women employees, who opted for voluntary retirement on medical ground, were suffering from breast cancer. All this shows that the retired employees managed to get employment to their wards and obtained false Certificates. The Certificates are not in the prescribed format. Nothing is on record to show on what basis the Civil Surgeon issued Medical Certificates to respective employees. All this shows that the applicant being President of the Chandrapur District Central Cooperative Bank appointed all wards of 24 employees knowing well about all misdeeds. It appears that he is involved in all the manipulations. Being President of the Bank, the applicant may destroy material documents and pressurize the material witnesses i.e. retired employees on compassionate ground and the newly appointed their wards. There is also possibility of pressuring other employees of the bank. Therefore, applicant is not entitled for anticipatory bail. Moreover, custodial interrogation of the applicant is required to unearth all the misdeeds and the huge amount received by the applicant. In that view of the matter, the application is rejected.

This order be communicated to the Counsel appearing for the parties, either on the

email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

ssjaiswal