IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.51 OF 2021

Chandrakant s/o Narayan Desle
Age 59 years, Occ.Nil (retired)
R/o 26, Shakuntala Colony,
Gontur, Air Port Road, Dhule
District Dhule. .. Applicant

Versus

The State of Maharashtra
Through the Police Inspector
Dhule City Police Station,
Tq. and Dist.Dhule. .. Respondent

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Senior Advocate Shri V.D.Hon i/b Shri A.V.Hon for the applicant
A.P.P. Shri P.G.Borade for respondent State.

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CORAM : MANGESH S. PATIL, J.
DATE : 11.02.2021

P.C. :-

This is an application under Section 438 of the Cr.P.C. as the applicant is apprehending his arrest in connection with Crime No.206/2020 registered with Dhule City Police Station, Dist.Dhule for the offences punishable under Sections 409, 420, 465, 467, 468, 471, 477(A), 120(B) of the I.P.C.

2] It is alleged that the applicant was the Chairman of a Credit Cooperative Society for the year 2011-12. During his tenure a decision was taken by the society to apply for group insurance of its members. It was resolved that it would apply to Bajaj Allianz Life Insurance Company Limited for that purpose. Accordingly at the rate of Rs.3000/- per member total aggregating

Rs.1,29,91,362/- was paid by way of premium to the insurance company. It is alleged that for want of renewal policy came to an end on 1/6/2012.

3] It is then alleged that during an inquiry under Section 83 of the Cooperative Societies Act by authorised Inquiry Officer the insurance company received a letter from the Enquiry Officer as to if the Policy No.02719884 for the year 2012-13 with a premium of Rs.1,76,22,500/- and Policy No.162196 for the year 2013-14 with a premium of Rs.1,99,50,396/- were issued by that insurance company. On inquiry it was found that no such policies were ever issued by the insurance company. The premium receipts were also bogus and fabricated.

4] It is further alleged that it was subsequently transpired that co-accused Vasant Sitaram Nikam and Kalpesh Bhagwant Joshi posing themselves to be the Directors of one Federal Financial Consultant Limited Company in collusion with the applicant who was then the Chairman and the then Chief Executive Officer of the society, drew a policy in respect of the employees of that company, however, when there were only 12 employees of the company, it was shown that all the members of the society were the employees of the company and the policy was taken to derive commission of Rs.20 lakhs. Accordingly even the claims were lodged to the tune of Rs.1,41,00,000/-. It is thus alleged that the applicant alongwith the co-accused hatched a conspiracy and indulged in fabrication and misappropriation.

5] The learned Senior Advocate for the applicant would submit that applicant was the Chairman only for 2 years i.e. 2011-12 and 2013-14. He is a retired person. There are no criminal antecedents. He was in the employment of I.T.I. Nashik. Merely on suspicion even he is being roped into the crime. There is no clear material about applicant having derived any wrongful gain. Merely on suspicion he is now being implicated. Already claims have been received in respect of 56 deceased members of the society which could not have been possible but for the policy. His custodial interrogation is not necessary. It is the Chief Executive Officer who was responsible for the day to day affairs of the society. The applicant being the Chairman was not taking part in such day to day activities and he may be granted bail subject to usual terms and conditions.

6] The learned A.P.P. strongly opposes the application. He submits that the offence is serious. There is a specific allegation in the F.I.R. lodged by the employees of the insurance company to the effect that both policies stated to be obtained by paying money from the society were bogus meaning thereby that it is a serious matter of forgery and using forged documents. Considering the fact that the offence has been committed by hatching a conspiracy, custodial interrogation of the applicant is highly necessary and the application be rejected.

7] I have carefully gone through the papers of the investigation. It is to be emphasized that the F.I.R. has been lodged by an employee of the insurance company stating that the 2 policies stated to have been purchased by the society for which crores of rupees were paid by way of premium are forged and bogus. At this stage this much of material is sufficient to infer that it is indeed a serious crime.

8] Going by the allegation there are two aspects. Firstly, it is being alleged that the policies are bogus. Having found that the members of the society were shown to be the employees of the company in which name the policy was drawn and even claims were settled in the name of the company in few cases and since these were the members of the society, even if the premium is said to have been paid from the accounts of the society and even though the policy was drawn in the name of that Federal Company, no wrongful loss is caused to anybody nor can it be said that somebody has derived wrongful gain. Such a limb of arguments of the learned Senior Advocate does appear to be sound at the first blush.

9] However, simultaneously there is another aspect of the matter as well. There is a specific statement of the informant to the effect that it is in order to earn more commission, instead of resorting to renewal, the policy was drawn so as to cover the members of the society by showing them to be the employees of the Federal Company and huge commission of Rs.20 lakhs was received.

10] Even if the first aspect is ignored this second aspect is still a matter which would constitute an offence of cheating and forgery in as much as the policy was drawn in respect of persons who were not the employees of the company. In order to pay the premium the money of the society was used and to cover all these, forged and bogus policies were shown.

11] Considering the fact that the applicant was the Chairman of the society at the material time and taking into account the serious nature of the crime his custodial interrogation is highly imperative.

12] The Application is rejected.

[MANGESH S. PATIL, J.]

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