

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

911 ANTICIPATORY BAIL APPLICATION NO.918 OF 2020

DEVIDAS MANGU SONAWNE
VERSUS
STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Savale Amit S.
APP for Respondent : Mr. V.M. Kagne.

CORAM : MANGESH S. PATIL, J.
DATE : 21.01.2021.

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure as the applicants are apprehending their arrest in connection with Crime No. 724/2020, registered with Shahada Police Station, District Nandurbar, for the offences punishable under Section 406, 420, 506 read with Section 34 of the Indian Penal Code.

2. In substance the allegations are to the effect that the applicants who happen to be a father and his two sons run an Educational Institute. By promising to give employment as a teacher they made the informant part with an amount of Rs. 18 lakh. Some sort of interview was held. Letter of appointment was given, however, the employment never commenced. Realizing that she has been duped, she filed the F.I.R.

3. The learned advocate for the applicants submits that the informant and her family members are pressurizing the applicants. Already one attempt was made by lodging a complaint with Nardana police station alleging that the amount was paid at Hol within the jurisdiction of that police station. An enquiry was conducted. The applicants were served with a notice under Section 91 of the Code of Criminal Procedure. They had also

obtained anticipatory bail. Since no fruitful purpose was served, the informant has filed the present F.I.R. at Shahada Police Station alleging about the amount having been paid within the jurisdiction of Shahada. He would further point out that the persons who are named in the present F.I.R. stating to have witnessed the payment being made do not find place in the complaint filed by her at the earlier point of time. He would then submit that there is enormous delay in lodging the report. The alleged payment was made in the year 2016 whereas the F.I.R. has been lodged in the year 2020. He would further submit that the informant has conveniently not disclosed her earlier attempt of lodging a complaint with Nardana Police Station.

4. Lastly, the learned advocate would submit that going by the allegations at the most it would be a civil dispute. The applicants' custodial interrogation is not necessary. They are ready to cooperate the Investigating Officer. They have already been protected by *ad interim* relief. There are no allegations about they having committed breach of the terms and conditions subject to which the interim relief was granted and the application be allowed.

5. The learned A.P.P. strongly opposes the application. He submits that though there is some delay, at this juncture there is nothing to disbelieve the version in the F.I.R. He would further submit that the discrepancy in the earlier complaint and the present F.I.R. need not be gone into at this juncture. That may be relevant during the trial. He would further point out that during investigation it has transpired that an advertisement was issued in a newspaper, an interview was held, some sort of resolution was passed, an undertaking was obtained from the informant, she was also given an appointment letter and all these circumstances clearly indicate that the applicants by sharing common intention had wrongfully gained causing consequential wrongful loss to the informant. Their custodial interrogation is imperative and the application be rejected.

6. I have carefully gone through the papers. Obviously, there are some discrepancies in the report lodged by the informant with Nardana police station and the one in the matter in hand that may have some bearing while testing veracity or otherwise of her version. However, at this juncture no much weight can be attached to it. More so, when during investigation various documents have been recovered to patently demonstrate that an advertisement was issued, the informant was made to appear for some interview, a copy of resolution giving approval to the appointment, an undertaking obtained from her and the letter of appointment would clearly lend support and credence to the allegations that the applicants had staged some sort of actions to demonstrate that she was being given appointment. Certainly, these documents again will have to be tested during recording of the evidence but at this juncture one cannot discard them outrightly. These would clearly indicate that they had planly induced her to part with money.

7. Again, there indeed appears to be a delay in lodging the present F.I.R. but again, the effect of the delay can only be considered during a full fledged trial extending an opportunity to the prosecution to explain it.

8. Considering the gravity and the modus operandi there is every room to believe that the informant was cheated and custodial interrogation of the applicants is highly necessary.

9. The Application is rejected.

10. At this juncture the learned advocate for the applicants submits that since the applicants were already protected till date by way of ad interim relief the protection may be continued for some time. The request is rejected.

(MANGESH S. PATIL, J.)

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