

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 948 OF 2021

Shivnath Vishwanath Kapre
versus
The State of Maharashtra

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Mr. Anil P. Basarkar, Advocate for the applicant
Mrs. Vaishali S. Chaudhari, APP for respondent.

CORAM : V.G. BISHT, J.

RESERVED ON : 7th September, 2021
PRONOUNCED ON : 15th September, 2021.

PER COURT:

1] This is an application under Section 438 of Cr.P.C. preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No.180 of 2021, registered with Police Station, Wadod Bazar, Dist. Aurangabad for the offences punishable under Sections 406, 420, 506 of IPC.

2] The informant and his wife, namely Mirabai @ Rukhminibai Kapre, had taken two policies through Policy Agent Shri Shivnath Vishwanath Kapre (applicant), bearing Nos. 9851136798 and 984878066 in the year 2007. The maturity year of said policies was 2023. The informant on the basis of policies had also taken loan of Rs. 30,000/- from the LIC office in the year 2015 and applicant had helped to secure that loan.

3] According to prosecution, the applicant had given the receipts of payment of LIC premium till 22.5.2021. However, the loan amount and interest thereon, amounting to Rs. 45000/- and also premium of Rs. 27136 i.e. in all Rs. 72,136/- was given to applicant on 6.4.2021 so as to deposit the same in the office of LIC in the presence of witnesses. It is alleged that the said amount was not deposited by the applicant and rather, he misappropriated it. The informant accordingly filed the complaint.

4] Mr. Basarkar, learned counsel for applicant, submits that the applicant has been implicated only with a view to harass him, inasmuch as, the applicant had filed the NCR against the informant on 25.7.2021. According to learned counsel, a dispute is going on between the informant and the applicant in respect of landed property because of which a false FIR is filed against the applicant. The learned counsel then showed applicant's readiness to cooperate in the investigation and urged that the application may be allowed.

5] Mrs. Chaudhari, learned APP, on the other hand, vehemently opposed the application by contending that the applicant and informant are from the same village and know each other very well. Believing the applicant, the informant not only took out the insurance policies, but also handed over him total amount of Rs. 72,136/- towards LIC premium, loan amount and interest thereon. However, the said amount was not deposited in the account of the informant and rather it was misappropriated. The learned APP also invited my attention to the statements of witnesses recorded by the I.O. during investigation to emphasize that they also support the contents of FIR, inasmuch as,

according to them, the informant had paid said amount of Rs. 72,136/- to the applicant. The investigation is going on and custody of the applicant is very much necessary.

6] First of all, I may note that there is no dispute to the fact that the applicant is an LIC agent. Perusal of the investigation papers would reveal that the informant and his wife are having two policies as is detailed in the FIR and the LIC agent is the father of the applicant. It is also the case of informant that he has taken these policies through applicant from the father of the applicant. It is a specific case of the informant that in presence of the witnesses, he had paid Rs. 72,136/- to the applicant for depositing the same in the LIC office towards loan amount alongwith interest and premium of polices. However, that amount was not paid and it was misappropriated by the applicant. There are three statements of witnesses, namely, Kakarao @ Kakaji Kapre, Madhukar Laxman Kapre and Gajanan Tupe. All of them unisonly state that total amount of Rs. 72,136/- was paid by the informant to the applicant on 6.4.2021 in their presence. However, same was not deposited by the applicant in the LIC office. In my considered opinion, there is prima-facie involvement of the applicant, inasmuch as, not only there are policies but informant also made payment in presence of said prosecution witnesses to the tune of Rs. 72,136/-.

7] I do not find any merit in the submission of learned counsel for the applicant that the applicant has been falsely implicated. I have also gone through the NCR filed by the applicant against Ratnakar Laxman Kapre and Rukhminibai Kapre. There may be dispute between the parties over agricultural land but the offence for which he is charged is altogether different and has nothing to do with the NCR filed by the

applicant. In such circumstances, the applicant cannot derive any benefit from the filing of NCR against the informant and his wife.

8] In view of above discussion, I am not inclined to entertain the application. Hence, the following order :-

: O R D E R :

The applicant is rejected.

**[V.G. BISHT]
JUDGE.**

grt/-