

Ananda s/o Narayan Gaikwad ... **Applicant**
Age 48 years, Occu: Service as Talathi
R/o Taroda Naka, Nanded
Tq. & District Nanded

The State of Maharashtra, ... Respondent
Through Investigating Officer,
Police Station Chudawa,
Tq. Purna, District Parbhani

CORAM : V. G. BISHT, J.
RESERVED ON : 9th September, 2021
PRONOUNCED ON : 16th September, 2021

1. This is an application under section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No.162/2021 registered with Chudawa Police Station, Tq. Purna District Parbhani for the offence punishable under Section 7 of Prevention of Corruption Act.

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trap was laid, however the trap was not successful. On 2/3 occasions, trap was again laid but the same could not be materialized. Accordingly, the informant lodged the report.

3. Mr. M. P. Tripathi, learned counsel for the applicant, submits that applicant has been falsely implicated. Even otherwise, the alleged first information report is lodged belatedly. There is no question of custodial interrogation and in such circumstance, the application be allowed.

4. Mr. S. B. Narwade, learned A.P.P., on the other hand, would oppose the application by contending that there was demand of Rs.5,000/- made by the applicant so as to record a mutation entry in the name of informant. Despite attempting various raids, the same were unsuccessful. Antecedent of the applicant is also not good. In similar case, he was arrested and was required to face trial. The offence being of serious nature, the present application deserves to be rejected.

5. In a rejoinder to the above, learned counsel for the applicant submits that earlier Special Case ACB No.1 of 2010 against the applicant resulted into acquittal and therefore, it cannot be said that the applicant is having bad antecedents. Learned A.P.P. countered this submission by contending that appeal has been preferred against the said order of acquittal. However, it is clear that the judgment of acquittal is not stayed by the appellate court.

6. On going through the investigation papers, it appears that conversation between the informant and the applicant was duly recorded through digital voice recorder, transcription of which is already on record. There is also a panchanama as to the alleged demand of bribe, which is also on record. Prima facie, the documentary evidence is there on record showing complicity of the applicant in the alleged offence. However, at the same time, one cannot be oblivious of the fact that there is nothing to be recovered from the custody of the applicant. As far as the antecedents are concerned, I have already pointed out the acquittal order operating in favour of the applicant.

7. The above being the situation, I do not find merit in the submission of learned A.P.P. that it is a case of custodial interrogation. Rather, in the facts and circumstances of the case, custody of the applicant is unwarranted.

8. In view of above, I pass following order.

O R D E R

- i. In the event of arrest of the applicant in connection with Crime No.162/2021 registered with Chudawa Police Station, Tq. Purna District Parbhani for the offence punishable under Section 7 of Prevention of Corruption Act, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs. 25,000/- [Rs.

Twenty Five thousand only], with one or two solvent sureties in the like amount.

- ii. The applicant shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
 - iii. The applicant shall not tamper with prosecution evidence in any manner.
9. Application stands disposed of in the aforesaid terms.

(V. G. BISHT, J.)

JPC