

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

918 ANTICIPATORY BAIL APPLICATION NO.1095 OF 2020

**AJAY MANIKRAO KAMBLE
VERSUS
THE STATE OF MAHARASHTRA**

...
**Advocate for Applicant : Khivansara Sunny S.
APP for Respondent State: Smt.R.P.Gaur
Adv. V. D. Gunale to Assist PP**
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**CORAM : MANGESH S. PATIL, J.
DATE : 04.02.2021**

PC. :-

This is an application under Section 438 of the Cr.P.C. seeking bail in the event of arrest of the applicant in connection with Crime No.343/2020 registered with Majalgaon City Police Station, Dist.Beed for the offences punishable under Sections 420, 465, 467, 468, 471 and 120-B of the I.P.C.

2] In nutshell the allegations as can be gathered from the F.I.R. and the police papers are to the effect that all the accused hatched a conspiracy, indulged in forgery and cheated the informant by dishonestly inducing him to part with money by promising to set up a business of erecting mobile towers in Majalgaon town.

3] The learned advocate for the applicant would vehemently submit that the applicant is being falsely implicated because of a civil dispute regarding sale of property between his family and the informant's family. It is only as a

pressurizing tactic that the false F.I.R. has been lodged. At no point of time any promise was made to set up any business. At the most it would constitute a civil dispute. Considering the allegations custodial interrogation of the applicant is not necessary. It is a matter which can be investigated by resorting to only examination of record. Already amount of Rs.10,000/- has been refunded by the applicant to the informant, there are counter foils of the deposit slips. The entire money received from the informant has already been refunded. He is ready to cooperate the Investigating Officer. There is no need to resort to his custodial interrogation and he may be granted anticipatory bail. The learned advocate would place reliance on the following decisions :

- 1] Gurbaksh Singh Sibbia etc. V/s The State of Punjab; AIR 1980 S.C. 1632
- 2] Siddharam Satlingappa Mehetre vs. State of Maharashtra and Others (2011) 1 Supreme Court Cases 694

4] The learned advocate for the applicant would further submit that this Court has granted anticipatory bail to accused no.2 Abhijeet Bhimrao Gheware and therefore even on the ground of parity the applicant is entitled to claim bail.

5] The learned A.P.P. and the learned advocate for original complainant strongly oppose the application. They submit that the offence is serious though there is some civil dispute that has nothing to do with the present crime. It was a transaction regarding sale and purchase of immovable property on the basis of an Isar pavati of the year 1991. The present transaction was entered into in the year 2016. It is not that the applicant alone is being singled out. There are other accused as well, some of whom hail from different States. All these circumstances are clearly indicative of

there being a conspiracy. The informant was promised participation in the business. Money was recovered from him not only by the applicant but by other accused persons as well. The monies were transmitted by R.T.G.S. Considering all these circumstances when the accused nos.3,4 and 5 are still to be arrested, releasing the applicant on anticipatory bail is likely to cause serious prejudice to the investigation officer.

6] The learned A.P.P. would point out that the case of co accused Abhijeet Gheware stands on a different footing. No specific allegations were levelled against him and there was no record to show that he had received money from the informant and for these reasons this Court has granted him anticipatory bail. Here, the applicant as also the other 3 accused have received money and therefore the applicant is not entitled to claim bail on the ground of parity.

7] I have carefully gone through the papers. There is enough material to indicate that the informant had transmitted Rs.20,000/- by R.T.G.S. in the account of the applicant. Similarly he had transmitted Rs.3000/- in the account of the accused nos.3 to 5 each. In addition he was made to pay an amount of Rs.1650/- under the pretext of registration and another amount of Rs.12,200/- was paid by him to the accused no.5. The F.I.R. further reads that he received a blank agreement by registered post A.D. alongwith a letter pad of the telecom department of the Indian Government bearing stamps and signatures on that and after receiving such doubtful document he sensed that he was cheated.

8] All these facts and circumstances are suffice to indicate that the

applicant alongwith the co-accused has *prima facie* indulged in forgery and cheated the informant. All the necessary ingredients for the offences can easily be made out from the allegations.

9] Though the offence has been registered in the year 2018, none of the accused Nos. 3 to 5 could be arrested till date.

10] So far as accused no.2 is concerned viz. Abhijeet Gheware, as can be seen from the order granting anticipatory bail he had not recovered money from the informant and no specific role was attributed to him in the F.I.R. Those were the basic grounds on which he was granted anticipatory bail. In the matter in hand there is material to show that the applicant had indulged in making promise and made the informant part with money which he received in his account.

11] Even it is now being pretended by the applicant by showing counter foils of deposit slips that he has refunded money to the informant in the year 2017. This implies that even he admits to have received the money. Considering all the aforementioned facts and circumstances, the applicant's custodial interrogation is highly imperative. Releasing him on anticipatory bail is certain to cause prejudice to the investigation. The applicant is not entitled to derive any benefit from the decisions in the case of Gurbaksh Singh Sibbia, Siddharam Satlingappa Mehetre (supra) and even the latest decision of the Supreme Court in the case of Sushila Aggarwal V/s State (NCT of Delhi) and another; (2020) 5 Supreme Court Cases 1.

12] The application is rejected.

13] The learned advocate for the applicant submits that the applicant has been enjoying interim protection. There are no allegations about he having breached the terms and conditions of ad-interim bail and the protection may be extended further for 4 weeks to enable him to approach the Supreme Court.

14] Considering the seriousness of the crime and all the aforementioned facts and circumstances, the applicant is not entitled to the concession any longer. The request is rejected.

[MANGESH S. PATIL, J.]

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