

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

15 ANTICIPATORY BAIL APPLICATION NO.1155 OF 2020

BHAUSAHEB PANDURANG PETKAR
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr. Gaware Niteen V.
APP for Respondent : Mr. V.M. Kagne.

CORAM : MANGESH S. PATIL, J.
DATE : 01.02.2021.

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure as the applicant is apprehending his arrest in connection with Crime No. 668/2020 registered with Rahata Police Station, District Ahmednagar for the offences punishable under Sections 419, 420 read with Section 34 of the Indian Penal Code.

2. Shortly stated the prosecution case is to the effect that the applicant is in employment of a well known educational institute. He along with the other two accused, which is a couple, induced the informant to part with money promising to secure a job for his wife in that institute. In spite of the informant having paid money as promised, the applicant and the other two accused failed to secure the job. The informant realized that he was deceived into parting with the money. Several such other persons have also been similarly deceived and accordingly the F.I.R. was lodged and the offence has been registered.

3. The learned advocate Mr. Gaware for the applicant submits that the applicant is innocent and is being falsely implicated. There is enormous delay in lodging the F.I.R. The dates of payment of money mentioned in the

F.I.R. are palpably illogical and therefore unbelievable. He is not at all concerned with the transaction between the other accused and the informant. Even he does not know them. He is in the employment of the educational institute. He has been subsequently transferred to a different place. His custodial interrogation is not necessary. He will be put to disrepute if he is allowed to be arrested. Ad-interim protection granted to him by the order dated 10.12.2020 be confirmed.

4. Learned A.P.P. assisted by the learned advocate for the informant strongly oppose the application. They submit that it is a crime committed in a systematic manner. The informant and several such persons have been deceived by promising employment. Though the applicant is claiming to be not known to the co-accused/couple, there are statements of atleast two witnesses who pointedly refer to their acquaintance. One of them happens to be the brother of one of the accused. Considering the modus operandi, custodial interrogation of the applicant is necessary. All the accused in tandem have deceived the informant and other witnesses. The money is to be recovered and the discretion may not be used in favour of the applicant.

5. I have carefully gone through the papers. Obviously, there is some error in mentioning the dates on which the payments were made by the informant to the accused persons about which the Investigating Officer has now informed that it is a sheer error which has subsequently been corrected.

6. As can be seen from the F.I.R. a specific role is attributed to the applicant. The informant mentions about the co-accused/couple having introduced him to the applicant who promised him to secure a job and demanded money which he directed to be paid to the co-accused/couple.

7. Though the applicant is now feigning ignorance and taking a stance of he being not familiar with the co-accused/couple, there are statements of the witnesses namely Somnath Gaikwad and one Ghanshyam Khairnar who have spoken about the circumstances to indicate that indeed the applicant

and the co-accused/couple know each other. Incidentally, Somnath happens to be brother of the co-accused Bina Sampat Gaikwad @ Bina Dinesh Sonwane.

8. Though no separate F.I.Rs. are registered, there are few other persons whose statements have been recorded under Section 161 of the Code of Criminal Procedure and who all have stated about having been cheated by the applicant and or other two accused in a similar manner.

9. Though the learned advocate for the applicant has stated about the applicant having approached the concerned police station making a grievance in writing apprehending his being roped in a false crime, the Investigating Officer has specifically informed that he had never approached and file any grievance.

10. Considering the seriousness of the crime and all the aforementioned facts and circumstances including the stand now being taken by the applicant, his custodial interrogation is utmost necessary and the discretion cannot be used in his favour.

11. The Application is rejected.

12. At this juncture the learned advocate for the applicant submits that the applicant has been protected from 10.12.2020 and he may be granted some breathing time by extending the protection to enable him to approach the Supreme Court.

13. Considering the seriousness of the crime and for the reasons mentioned herein above the request is rejected.

(MANGESH S. PATIL, J.)

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