

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

916 ANTICIPATORY BAIL APPLICATION NO.1261 OF 2021

RAMDAS NATHAJI DIVEKAR

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. Ujwal Subhash Patil, Counsel for applicant

Mr. S.B.Narwade, APP for respondents-State

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CORAM : PRAKASH D. NAIK, J.

DATE : 17th NOVEMBER, 2021

PER COURT:

1] The applicant is apprehending arrest in Crime No.0684 of 2021 registered with CIDCO Police Station, Aurangabad for the offence under Section 7 of Prevention of Corruption Act (for short, 'PC Act') on 8th October, 2021.

2] The complainant has alleged that on 27th September, 2021, he gave a call to Anti Corruption Bureau (for short, 'ACB') at Jalna and informed them that the police at Khultabad are demanding bribe from him. He intends to file complaint against them. He was informed by the Police Inspector from ACB that he would come to Aurangabad to meet him. Subsequently, the said Officer met the complainant, who also introduced the panch witnesses accompanying him. The complainant gave complaint to the said officer, stating that his brother is the owner of tipper and involved in transporting Sand on payment of royalty. On 23rd September,

2021, while Sand was being transported through tipper, the applicant had questioned him about transportation of Sand and as to how he was transporting it without meeting him. The applicant accused also told him that in case, he wants to operate his vehicle in the area of Khultabad, he should pay an amount of Rs.10,000/- to be paid to officer Mehatre and Rs.6,000/- to him per month. The complainant assured him that he would come with the money and left along with his vehicle. He was not interested in giving bribe to the police. After the complaint was given to the officer, it was decided to verify the complaint on the same day. Voice recorder was provided to him and the panch witnesses had accompanied him. The complainant met the applicant. He was conversation with him. There was discussion about the transportation of Sand. The accused demanded Rs.16,000/-. The accused left the place. Panchanama was recorded. Arrangement was made for trap. The complainant gave a call to the accused. The accused did not respond to the call. There was no meeting with the accused. The complainant returned back. On 7th October, 2021, the complainant was informed them, the accused would meet him at T.V. Centre, Aurangabad. He was instructed to hand over the amount of bribe to the accused. On 7th October, 2021, the complainant had informed the accused that on account of rain, the transportation of Sand is not in operation and that the accused would not accept the money from him. Thus, the trap was recalled. The amount was not accepted by the accused.

3] Learned Counsel for the applicant submitted that even assuming that there was demand by the accused, there was no acceptance of the amount. The conduct of the complainant is suspicious. The complainant himself has stated that on account of rain, the transportation of Sand is not being in operation and that the accused would not accept the bribe amount. There was further attempt to contact the accused for parting the amount. The custody of the applicant is not necessary. In case of arrest of the applicant, his employment will be in jeopardy, since he is working as police constable.

4] Learned APP submitted that the conversation ensued between the accused and the complainant that there was a demand of bribe. It is not necessary that the amount should be accepted to constitute the offence under Section 7 of PC Act. Specimen of voice sample is required to be obtained from the applicant. The offence is of serious nature. Custodial interrogation of the applicant is necessary. Hence, the application be rejected.

5] The complainant has alleged that on 23rd September 2021, the accused/applicant had allegedly made demand of bribe amount for himself and other officer. The complaint was forwarded by him on 27.09.2021. It is alleged that the demand was verified. Conversation was recorded between the accused and the complainant on 27.09.2021. In

spite of alleged attempts, the accused did not come forward to accept the bribe amount. The complainant himself stated that the accused would not accept the amount in view of rainy season and as transportation of Sand is not being in operation. The complaint was then lodged on 8th October, 2021. Thus, undisputably, the amount was not accepted. According to the prosecution, voice specimen is required to be obtained to ascertain whether the voice recorded in the conversation ensued between the complainant and the applicant, is of the applicant. For that purpose, custodial interrogation is not necessary. He can be directed to cooperate in handing over the voice sample and also co-operate in investigation.

6] In these circumstances, the custodial interrogation of the applicant is not necessary.

ORDER

- (i) Anticipatory Bail Application No.1261 of 2021 is allowed.
- (ii) In the event of arrest of applicant in connection with Crime No.0684 of 2021 registered with CIDCO Police Station, Aurangabad, the applicant be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(iii) Applicant shall report Investigating Officer on 22nd, 23rd and 24th November, 2021 at 11.00 am to 01.00 pm and shall co-operate in giving his specimen voice sample to the Investigating Officer and shall co-operate with the Investigating Agency.

(iv) The Application stands disposed of.

(PRAKASH D. NAIK, J.)

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