

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

925 ANTICIPATORY BAIL APPLICATION NO.1356 OF 2021

GANESH ARJUN MUNDE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Santosh S. Jadhavar
APP for Respondents: Mr. S.B. Narwade.

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CORAM : PRAKASH D. NAIK J.

DATE : 16th NOVEMBER, 2021.

PER COURT:

1] The applicant has preferred this application seeking anticipatory bail in connection with Crime No 132 of 2021 registered with Yermala Police Station, District osmanabad for the offence under section 7 of the Prevention of Corruption Act.

2] It is alleged that the applicant Ganesh, Assistant Police Inspector attached to Yermala Police Station demanded bribe of Rs. 1,00,000/- from the complainant Vishwajit through Police Patil Sushan Jadhavar for not initiating any legal action on the basis of anonymous applications received against the first informant in respect of the death of his brother. Further, it is the case of prosecution that ACB authorities arranged the trap for bribe demand verification. The first informant alongwith panch witnesses went to Yermala Police Station. The applicant demanded bribe of Rs. 1,00,000/- through one Sushan Jadhavar and upon negotiation it was brought down to Rs. 70,000/-. The first informant then requested to postpone the trap on 5th October, 2021 and 6th October, 2021 on the ground of his ill-health. Due to delay in fulfilment of demand of bribe, the Police Patil became alert and suspicious. He did not attend the phone call of the first informant. The first informant then lodged report against the applicant and Police Patil Sushan Jadhavar, on the basis of which the crime was registered.

3] The learned counsel for applicant submits that there is 50 day's delay in

lodging the FIR and there is no specific demand of bribe made by the accused/applicant personally nor any anonymous application is pending before the applicant. There is no need of custodial interrogation of the applicant. He submits that the investigation is based on documentary evidence and there is nothing to be recovered from the applicant.

3] The applicant was granted interim protection vide order dated 2nd November 2021 with a direction to attend the concerned police station on every Sunday between 11 am to 2:00 PM. The learned counsel for the applicant submitted that false complaint is registered against the applicant. The alleged demand is under clouds of suspicion. There has been enormous delay on the part of the complainant in filing the FIR. The custody was sought by the prosecution for the purpose of obtaining specimen of voice sample of the applicant. However, while interim protection was granted to the applicant by this Court, the applicant has attended police station and his voice sample has been obtained. There was no acceptance of amount. In these circumstances custodial interrogation of the applicant is not necessary.

4] It is further submitted that case of the complainant is that demand of illegal gratification was made by the accused since the complainant was apprehending further anonymous complaint against him. However, there is no such complaint on record to support the apprehension of the complainant and thus, the entire case of the prosecution is concocted. The conversation relied upon by the prosecution is doubtful. The absence of acceptance of amount merely on the basis of alleged discrepant demand. The applicant need not be subjected to custody. He is working as Assistant Police Inspector and in the event of his arrest, his employment would be in jeopardy. He has cooperated with the investigation and is willing to cooperate in further investigation.

5] Per Contra, learned Assistant Public Prosecutor submitted that demand itself amounts to offence. The conversation between the accused and complainant was recorded. The transcript of the conversation indicate that there was a demand the complainant's health was not keeping well. It is supported by medical certificate the custodial interrogation of the applicant is necessary and the offence is of serious nature. The applicant was granted interim protection by this court vide order dated 2nd November 2021. From the factual aspects of the matter it appears that the alleged the

demand was made on 21st August 2021. The verification of demand was made on the same day. The complainant thereafter borrowed time and was silent for a period of one and half month. Undisputedly, the bribe was not accepted. Specimen voice sample of the applicant has already been obtained by the Investigation agency. Considering the factual matrix of this case the applicant need not be subjected to custodial interrogation. Hence, I pass the following order.

ORDER

- [i] ABA No. 1356 of 2021 is allowed.
- [ii] The interim order dated 2nd November, 2021 is confirmed.
- [iii] In the event of arrest of the applicant in connection with Crime No. 132 of 2021 registered with Yermala Police Station, District Osmanabad, the applicant be enlarged on bail on furnishing PR Bond in the sum of Rs. 25,000/-, with one or two sureties in the like amount.
- [iv] The applicant shall appear before the I.O. as and when called for till filing of charge sheet.
- [v] The applicant shall not tamper with the evidence and shall not approach the complainant.
- [vi] The Application stands disposed of.

[PRAKASH D. NAIK]
JUDGE

GRT/-