IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 761 OF 2021

Madhav Yadavroa Shankarpale … Applicant

Versus

The State of Maharashtra … Respondent

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Mr. Abad Ponda, Senior Advocate, a/w Ms. Purvi Doctor and Ms. Shweta Rathod i/b. Elixir Legal Services, Advocate for the Applicant.
Mr. A. R. Kapadnis, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 28th JUNE, 2021

PER COURT:

1. This is an application for anticipatory bail in C.R. No. 10 of 2021 registered with Anti-Corruption Bureau (for short "ACB"), Mumbai for offences punishable under Sections 7 & 12 of the Prevention of Corruption Act, 1988.

2. The applicant is Executive Engineer Class-I at P.W.D., Mumbai. The prosecution case is that, complainants' daughter was following up bills of Rs.7,00,000/- for the work done by her at the instance of P.W.D. In spite of followup, bills were not sanctioned. About two years ago, the complainant approached Shri. Thakur and he demanded Rs.1,50,000/- which was parted by him. He was

informed that two bills were forwarded to Executive Engineer (applicant) for final approval. The complainant met the applicant on 1st March, 2021 and he directed him to meet clerk Shri. Santosh Shirke. On approaching Mr. Shirke, He was told that unless the amount of Rs.1,40,000/- is parted, the bills were not be sanctioned. The complainant parted amount of Rs.50,000/- to Mr. Shirke. He was told that one bill will be forwarded and after the said bill is cleared the complainant should give Rs.90,000/- to him and thereafter, the second bill will be sanctioned. On 3rd March, 2021, the complainant approached ACB Mumbai. It was decided to verify the demand. They approached Shri. Santosh Shirke. There was discussion with Mr. Shirke and Mr. Thakur about bills. Mr. Shirke demanded Rs.90,000/-. The complainant was told to bring money on the next day. Mr. Thakur told the complainant that he should give amount to Mr. Shirke and the applicant. The conversation was recorded in D.V.R. On 4th March, 2021, trap was arranged. The complainant approached Mr. Shirke. He demanded money. The complainant went to the cabin of applicant and informed him that Mr. Shirke is demanding money on his behalf and he is handing over the said amount to him and the applicant said “thik ahe dya”. He again had discussion with Mr. Shirke, who went to the cabin of applicant, and thereafter, the amount was handed over to Mr. Shirke.

Mr. Shirke was accosted and the amount was found in his possession. He was arrested.

3. The applicant had preferred an application for anticipatory bail before the Sessions Court which has been rejected by order dated 12th March, 2021.

4. Learned Advocate for the applicant submitted that the applicant has not demanded the bribe amount. It is alleged that the applicant granted permission to accused No.3 for taking the bribe. There is nothing but the belief of the complainant that the applicant in the context of the alleged bribe has stated those words. The amount was not handed over to the applicant. Verification of the demand was with the co-accused. In the incident dated 4th March, 2021 the applicant has not played any role. Only on the basis of false complaint the detention of applicant would jeopardize his employment. The bills were not pending since 2015-16. The complainant has allegedly paid the amount of Rs.1,50,000/- two years ago to another person. He also allegedly paid the amount of Rs.50,000/- to the co-accused. The applicant has not demanded any bribe amount from the complainant.

5. Learned APP submitted that the applicant was working as Executive Engineer. The complainant informed the applicant that

accused Shirke has demanded money and he is giving the amount to him to which the applicant has allegedly said "ठीक आहे द्या". Custodial interrogation of the applicant is necessary.

6. On perusal of the complaint it is apparent that the complainant has been following up the sanctioning of his daughters' bills since last two years. He has allegedly parted amount of Rs.1,50,000/- and Rs.50,000/- in the past. When he approached the applicant he was asked to contact the accused Shirke. It is not the case of the complainant that the applicant has demanded money from him. Even on the day of verification of demand, the applicant was not involved. In the conversation The amount was found in possession of the co-accused and he was arrested. The complainant has alleged on the day of parting amount he had approached the applicant and told him that on his behalf Mr. Shirke is demanding money and the same would be handed over to him to which the applicant has allegedly uttered the words as stated above. The script of conversation produced by the prosecution do not indicate that the complainant is giving money to Mr. Shirke as per demand of applicant. At no point of time, there was demand of bribe amount by the applicant from the complainant. The applicant was granted interim protection on 18th March, 2021. He was directed to appear before Investigating Officer on 23rd, 24th and 25th March, 2021 and

cooperate with the investigation by giving voice sample for the purpose of investigation. It is submitted that the applicant has complied the directions. Considering the aforesaid factual aspects, custodial interrogation of the applicant is not necessary.

7. Hence, I pass the following order :

ORDER

(i) Anticipatory Bail Application No. 761 of 2021 is allowed and disposed of;

(ii) Interim order dated 18th March, 2021 is confirmed.

(iii) In the event of arrest of the applicant in connection with in C.R. No. 10 of 2021 registered with ACB, Mumbai, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(iv) The applicant shall appear before the investigating officer as and when called for till filing of charge-sheet.

(PRAKASH D. NAIK, J.)