

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1672 OF 2021

Dinesh Sureshrao GawandeApplicant
Versus
The State of MaharashtraRespondent

Mr. J.J. Xavier i/by Jayant Bardeskar, Advocate for the Applicant.

Ms. M.H. Mhatre, APP for the Respondent-State.

CORAM : SURENDRA P. TAVADE, J.

DATE : 10th MAY, 2021.

P. C. :

1. This is an application for bail under Section 430 of Cr.P.C. in connection with C.R.No.10/2021 registered with Sahar Police Station for the offences punishable under Sections 188, 269, 465, 468, 471, 473, 420 r/w.34 of Indian Penal Code, 1860 (IPC) and u/s.51(B) of Disaster Management Act with Rule 11 of Covid-19.

2. It is the case of prosecution that the FIR was lodged by the Executive Engineer of BMC on 15.01.2021. It is alleged in the FIR that the applicant was working as a Sub-Engineer in MCGM. He was deputed in Mumbai International Airport for checking the RT-PCR Test Report of the passengers arriving in India from foreign countries.

3. It is alleged that on 15.01.2021 at about 5.50 a.m. the officers of CRFF and MIAI informed the informant that the applicant was demanding

Rs.4,000/- from the passengers for allowing them facility of home quarantine instead of institutional quarantine. It is contended that the applicant demanded and received Rs.4,000/- each from four passengers mentioned in the FIR. It is alleged that in the bag of applicant, the informant and the Security Officers of the Airport found two rubber stamps of Dr. Anant Radhaswami and Dr. Sandip Savkare, letterhead of Tata Memorial Hospital, cash of Rs.1,35,080/- alongwith 200/- notes of Saudi Riyal. The said articles have been seized under the Seizer Panchanama. It is alleged that the applicant used to demand Rs.4,000/- from the passengers for allowing them the facility of home quarantine instead of institutional quarantine. It is contended that on the basis of above allegations, the learned counsel for the applicant submits that those are false allegations, infact no passenger has made any complaint that inspite of their RT-PCR certificate the applicant demanded money from them. He also pointed out some discrepancies in the statement of the sweeper who saw the applicant alongwith money rapped in the handkerchief. He submits that the applicant came to be arrested in the night of 14.01.2021. Since then he is in custody. The investigation is completed. The co-accused have already been released on bail. He also submitted that two months prior to the alleged incident, the applicant met with an accident and his leg was fracture and rod is implanted in his leg. He also submitted that the applicant need a medical treatment. Therefore, he be released on bail.

4. Learned APP for the State submits that there are direct allegation against the applicant coupled with the recovery of money. The role of accused-persons who are released on bail and the present applicant is

totally different. So the rule of parity cannot be claimed by the applicant. She also submits that the applicant was entrusted with the duty to check the RT-PCR certificates of the passengers and direct them either to home quarantine or institutional quarantine, but he failed in duty. He committed breach of Covid-19 rules and safety of Indian citizen. The act of applicant is graver than the other accused-persons who are released on bail. She submits that there is ample evidence against the applicant. Therefore, she prays to reject the application for bail.

5. Perused the FIR. Admittedly, the applicant is an employee of BMC. He was sent on deputation to Mumbai International Airport for verifying the RT-PCR certificate. It was his duty to certify whether the passengers should be advised for institutional quarantine or home quarantine on the basis of the certificate possessed by them. The crucial material against the applicant is that he was found with his bag having rummer stamps, letterhead of doctors and hospitals. Similarly, he was found in possession of cash of Rs.1,35,080/- alongwith 200/- notes of Saudi Riyal. So *prima facie* the involvement of the applicant is established from the charge-sheet filed against him.

6. As far as the bail of applicant is concerned, the entire investigation is over. The charge-sheet is filed against him. There is no possibility of early hearing of the case in near future. Prior to the incident, the applicant met with an accident and he was operated, so some medical care is required to be taken. Co-accused who helped the applicant in the alleged offence, have been released on bail. No doubt, the role of co-accused is different than the present applicant, but at the same time it can

be said that they were connivance with each other. Looking to the totality of the allegations and recovery, in my opinion, the applicant is entitled to be released on bail as there is no possibility of early hearing in near future.

7. Hence, I pass the following order.

ORDER

- (i) Criminal Bail Application is allowed and disposed of.
- (ii) In the event of arrest of the applicant in connection with C.R.No.10 of 2021 registered with Sahar Police Station, 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) The applicant shall not tamper or threaten the prosecution witnesses whatsoever manner;
- (iv) The applicant is directed to attend the hearing of the case regularly in the trial Court.
- (v) The applicant is directed not to leave Mumbai without prior permission of this Court.

[SURENDRA P. TAVADE, J.]