

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1554 OF 2021

Nanji Masri Gujaraya

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Ankit R. Takle for Applicant.

Mr. Amit A. Palkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 05th JULY, 2021

(Through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 13 of 2021 registered at Taddeo Police Station, on 17/01/2021, under section 420 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Ankit Takle, learned counsel for the applicant and Shri. Amit Palkar, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by one Manish Chouhan. He has stated that, he was

married on 21/01/2015 to his wife Varsha Dhanji Koli. In the year 2017, the informant's father in law Danji told him that, Danji's father Pola Koli was employed with Mumbai Municipal Corporation as a class IV employee in 'D' ward. He had retired in the year 1978 and in his place the informant's wife who was grand daughter of Pola Koli could get a job. The informant went to 'D' ward, Nana Chowk to make inquiries. Within a couple of days the applicant who was working in 'C' ward and who was knowing the informant's father met them. The applicant told them that, he knew one Nitin Bhoj who was working in 'D' ward and that he could do their job for which the informant's family would have to spend Rs.6,50,000/-. The applicant introduced the informant to Nitin Bhoj. The informant's case is that, he paid Rs.4 lakhs in cash to the applicant and the amount was handed over by the applicant to Nitin. The informant had recorded this in a video clip. Even thereafter the informant paid Rs.2 lakhs more. Co-accused Nitin told the informant that the informant's wife would have to appear for medical examination. A letter to that effect was given to him. Nitin demanded Rs.50000/- more. It was paid to the applicant and

Nitin on 28/04/2018. The informant was given his wife's appointment letter, but instead of 'D' ward she was shown appointed in 'H' ward w.e.f. 01/05/2018. Thereafter, Nitin obtained informant wife's signatures on blank papers. Co-accused Nitin told the informant that, he had shown informant's wife as niece of one Rajesh Koli who was supposed to be 4th son of the deceased Pola Koli. This fact was not true because Pola Koli do not have 4th son by name Rajesh. Around that time, the informant's wife was pregnant. It is mentioned in the F.I.R. that, Nitin took Rs.7000/-p.m. to show her presence for the next 10 months though informant's wife did not attend any duty. Thus, in all, accused Nitin and applicant took Rs.8,70,000/-. The F.I.R. mentions that, applicant returned Rs.2 lakhs and co-accused Nitin returned Rs.1 lakh. However, rest of the amount of Rs.5,70,000/- was misappropriated. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the entire allegations are directed towards Nitin. The applicant had merely introduced the informant to Nitin. Beyond that, he has not played any part. He submitted that, even this applicant had

returned Rs.2 lakhs, though, he had not taken any money. He submitted that the applicant is a senior citizen and had recently recovered from Covid-19 infection. He submitted that, the applicant deserves protection of anticipatory bail.

5. Learned APP opposed this application. He submitted that, misappropriated amount remains at Rs.5,70,000/-. The informant is cheated to that amount and, therefore, applicant's custody is necessary to trace that amount.

6. I have considered these submissions. The narration in the F.I.R. itself shows that the informant had paid that money for illegal purpose. The F.I.R. itself mentions that, the informant was paying Rs.7000/-p.m. to Nitin to show his wife's presence on duty, though, she was pregnant and could not have attended any duty. This shows that the informant was very well aware of the illegality of the entire transaction. Therefore, the informant has not approached the police with clean hands. He himself had acted illegally. Even otherwise, as rightly submitted by learned counsel for the applicant, majority of the allegations are directed towards co-accused Nitin. The applicant was instrumental, at the highest,

in introducing Nitin to the informant. The F.I.R. also mentions that, on one occasion the applicant had accompanied the informant and others in meeting Nitin and making inquiry. In this view of the matter, applicant's custodial interrogation is not necessary. He can be protected by an order or anticipatory bail.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 13 of 2021 registered at Taddeo Police Station, the applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)