

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2737 OF 2021

MRS.SHARIFA NISAR MULLA)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA & ANR.)...RESPONDENTS

Mr.Imtiyaz I. Patel, Advocate for the Applicant.

Mr.Ameet Palkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 25th OCTOBER 2021
PRONOUNCED ON : 29th OCTOBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.9 of 2021 registered with Police Station Pen, Raigad, for offences punishable under Section 420, 468, 471 read with 34 of the Indian Penal Code (IPC).

2 The prosecution alleges that in the year 2018 friend of informant's father informed him (father) that the applicant and one person by name Nilesh Thakur have influences in the government department and they could secure job for him in Thane Municipal Corporation for the post of Clerk. Accordingly, informant met the applicant and paid Rs.2.50 lakh. It is alleged that in the month of August 2019 he received an appointment letter from Thane Municipal Corporation, Water Department. Therefore, he further paid Rs.2.50 lakh to them on 16th September 2019. The informant was called for three days training at Goregaon, Mumbai. However, it is alleged that other youths were also present there. The appointment letters were taken by the applicant and said Nilesh Thakur on the assurance that they would receive a joint appointment letter. However, no such appointment letter was issued. The informant and others then realized that they have been deceived by the applicant and Nilesh Thakur.

3 It is further alleged that the informant and others then approached the applicant and said Nilesh Thakur and demanded the refund of their amounts. Accordingly, the applicant on behalf of Nilesh Thakur entered into a Notarized Agreement on 2nd January 2020 and Nilesh Thakur on his part issued post dated cheques to the informant and other victim persons. However, said cheques were subsequently dishonoured.

4 Mr.Imtiyaz Patel, learned counsel for the applicant, submits that the applicant merely worked as an agent for Nilesh Thakur who is the main accused and beneficiary. That was the reason why Nilesh Thakur had issued post dated cheques to the victims. According to the learned counsel, even the applicant was influenced by the main accused and that is why she merely worked as an agent of the main accused. It is not the case that the applicant prepared forged appointment letters or anything incriminating came to be recovered from her possession. The entire transaction had taken place between the victims and said

Nilesh Thakur. For all these reasons, the present application deserves consideration, urged learned counsel.

5 Mr.Ameet Palkar, learned APP, on the other hand, invited my attention to the investigation papers and submitted that the applicant collected monies on behalf of the accused Nilesh Thakur. This, in itself, goes to prove her involvement. There being no merit in the application, the same is liable to be rejected.

6 I have gone through the investigation papers. From the Notarized Agreement between the victims and the applicant, it is seen that accused Nilesh Thakur through the applicant conveyed the victims that recruitment process in Thane Municipal Corporation is going on and asked the willing persons of the first party of the agreement to contact the applicant. Said Nilesh Thakur also asked the applicant to collect monies on his behalf from the willing candidates and that the said amount would automatically reach to him. Even it appears from the said

agreement that certain cheques were issued by Nilesh Thakur but the said cheques could not be honoured.

7 From the above, what is apparent is that in the whole episode, it is the main accused, namely, Nilesh Thakur who is the mastermind and used the applicant as a conduit to collect the monies. It is also not the case of the prosecution that the present applicant, in any manner, actively participated in forging the appointment letters or any incriminating material was found from her possession. The main accused, namely, Nilesh Thakur, is absconding. The present applicant is in jail since 3rd February 2021. Charge-sheet has already been filed. Thus, I do not see the utility in keeping the applicant behind the bars.

8 In view of above obtaining situation, I am inclined to allow the application. Hence, the following order :

ORDER

- (i) Applicant – Mrs.Sharifa Nisar Mulla shall be released on bail in Crime No.9 of 2021 registered with Police Station Pen,

Raigad, on her executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.

- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (iv) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)