IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPAOTRY BAIL APPLICATION NO.2221 OF 2021

Chandrakant @ Ritesh B Rakhunde .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr.Bhavesh Parmar a/w Devmani Shukla, Vivekanand Akshali & Rajesh Sahani, Advocate for Applicant.
Mr. S. R. Agarkar, A.P.P. for the Respondent-State.
PI Mhamonkar, Cuffe parade police station present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 14th SEPTEMBER, 2021

PC.

1. This is an application for anticipatory bail in C.R. No.19 of 2020 registered with Cuffe Parade Police Station for the offence punishable under Sections 406, 417 and 420 of the Indian Penal Code (for short "IPC").

2. The FIR was registered on 26.01.2020. The case of the complainant is that she had completed graduation in Medicine and interested in pursuing study for post-graduation. For post-graduation studies, she was preparing for entrance examination. In 2016 the applicant/accused was introduced to the father of the informant stating he has close contacts with department of health and education and managing trusties of

various colleges. It was assured that the applicant would secure admission of the informant for post-graduation diploma in radiology/pediatrics. The result of entrance exam was declared and the informant was not qualified for her admission. The applicant accused then assured about the admission. The amount of Rs.12 lakhs in cash is parted with applicant on 17.01.2017 and Rs.18 lakhs cash was handed over on 19.03.2017. Except assurances, the promise of getting admission was not fulfilled. Hence FIR was lodged.

3. The applicant had preferred application for anticipatory bail before the Sessions Court. The said application was rejected by order dated 07.09.2020.

4. Learned counsel for the applicant submitted that the applicant has been falsely implicated in this case. There was transaction of loan of Rs.5 lakhs given to the applicant, which has been returned to the father of the informant. The allegation that the amount was handed over to the applicant in cash as stated in the FIR is concocted. The father of the informant was working as Assistant Commissioner of Police and he has used his influence and registered the FIR, pressurized the applicant and intimidated him for demand of money. The transaction was allegedly executed in cash. There is no proof of parting such amount. There is inordinate delay in registering the FIR and there is no explanation for the same. The amount was allegedly

parted in 2017. The FIR was registered on 26.01.2020. Father of the complainant was aware that the applicant was arrested in C.R. No.26 of 2017. Even while he was in custody, he was intimidated prior to registration of FIR. The applicant had addressed complaints to the authorities alleging that the informant's father is misusing his power as a Police Officer. The applicant was granted interim protection during the pendency of application before the Sessions Court and he has co-operated with the investigation. The statement in the form of queries was submitted to the applicant as a part of interrogation. The questionnaire was vague having no connection with the present case. The applicant had visited investigating officer on several occasions. Custodial interrogation of the applicant is not necessary. In the other case registered against the applicant he was arrested and granted bail. The order granting bail indicates that there was no involvement of the applicant in the offence. There was no cogent evidence against him to show his complicity. The applicant has already co-operated with the investigation. He is further willing to co-operate with the investigation.

5. Learned APP submitted that there is sufficient evidence to show the complicity of the applicant. The FIR clearly attributed overt act to the applicant. The informant and her father had parted huge amount of Rs.30 lakhs in cash to the applicant. The statement recorded during the course of investigation

discloses the involvement of the applicant. The informant and her father had obtained the amount of Rs.18 lakhs and 12 lakhs. The amount of Rs.12 lakhs was obtained from Co-operative Credit Society and the said fact is fortified by the statement of the witness, who has stated that the amount was borrowed by the informant. He further submitted that the amount of Rs.18 lakhs was obtained by way of loan from another person. Statement of the said witness has been recorded during the course of investigation. During the investigation statement of the person in whose presence the cash was handed over to the applicant was also recorded. The applicant was involved in similar case registered vide C.R. No.26 of 2017 with Vimantal Police Station, Pune for the offences under Sections 419, 420, 465, 467, 468, 471, 120B of Indian Penal Code. In the said case it was alleged that the applicant and the co-accused had promised the transfer of senior Police Officers and on gaining their confidence, they were deceived. It is submitted that the complainant and her father was pursuing applicant for return of the amount and hence the FIR was not lodged immediately.

6. On perusal of the FIR and the investigation papers produced by learned APP it can be seen that the allegation against the applicant is that he promised to secure admission for post-graduation diploma in medicine. Cash amount of Rs.18 lakhs and 12 lakhs were handed over to the applicant. The

promises were not fulfilled. During the course of investigation, the statement of various witnesses stated herein above were recorded. The applicant was arrested and granted regular bail in C.R. No.26 of 2017. Learned counsel for applicant submitted that order granting bail indicate that there is no evidence against him. The observation of trial Court does not indicate that there is no evidence against the applicant. Considering the evidence collected by the investigating officer and the nature of allegations reflected in the present FIR, no case for grant of anticipatory bail is made out.

ORDER

Anticipatory Bail Application No.2221 of 2021 stands rejected.

(PRAKASH D. NAIK, J.)