

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2312 OF 2021

Ammeet K. Agarwal

Applicant

versus

The State of Maharashtra

Respondent

Mr.S.VMarwadi i/by Mr.Yash Powle for applicant.

Mr.S.PAgarkar, APP, for State.

API Vijendra V. Dhurat, Azad Maidan Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 27th September 2021

PC :

1. The applicant is apprehending arrest in CR No.249 of 2021 registered with Azad Maidan Police Station for offences under Sections 419, 420 of Indian Penal Code. The FIR was registered on 15th June 2021.

2. The case of prosecution is that the applicant was working as Honorary Consul of Democratic Republic of Congo. His appointment was withdrawn by the Department of Foreign Affairs, Government of India vide order No.DIII/460/CR-34/2015 and Vide letter sent by Mr.Mosi Nayamale Rosest, Officer working at Consulate Office of Democratic Republic of Congo Nation with reference No.13283/01/825/17 dated 4th December 2017. Despite both the above referred letters withdrawing the post of Honorary Consul General, the applicant had illegally, directly or indirectly misused his position by taking participation with State Government or Central Government affiliated various institutions and thereby committed

breach of trust by inducing various institutions showing them as representative of Democratic Republic of Congo country.

3. Mr.Marwadi appearing for applicant submitted that there is no element of cheating involved in this case. There is nothing to indicate that position of applicant as Consul has been withdrawn at any point of time. He relied upon identity card and other documents on the website of Government of India, which according to him refers to the fact that applicant is a Consul for the said country even in September-2021. There was no complaint from any other source. There are no ingredients to constitute offence u/s.420. The prosecution has not pointed out to whom false representations have been made and who is being cheated. The security provided to the applicant is continued which indicate that he is holding the said post. There was no misuse of his position in any manner. Custodial interrogation is not necessary.

4. Learned APP submitted that appointment of the applicant was withdrawn in 2017 and the communication in that regard was given to him. Misuse of position held by the applicant in the past was revealed when the applicant forwarded e-mail to Commissioner of Police for appointment and the said letter bears the Stamp of Consul of Democratic Republic of Congo nation. Hence, necessary inquiries were made and it was revealed that he ceased to hold such post. Learned APP also relied upon communication of Foreign Ministry, New Delhi dated 30th October 2017 which refers to the fact that Government of India had withdrawn its consent for applicant as Honorary Consul of Democratic Republic of Congo nation in India. Investigation is in progress. The applicant has misused his position

and represented himself as Consul of the said country. Thorough and custodial interrogation is necessary. In 2019 he had preferred an application for anticipatory bail before this Court in another case and title of the application also indicate that he has referred to himself as His Excellency and thus he has been misusing his position although he has ceased to hold such position.

5. It is apparent that it is only when an e-mail was forwarded by the applicant for appointment to the Commissioner of Police, requisite inquiries were made and it was revealed that applicant ceased to be the Honorary Consul of the said country from 2017. I have perused the documents produced by learned APP. The investigation is in progress. As to how and in what manner the applicant has misused the position, is required to be investigated. At this stage submission of learned counsel for applicant that ingredients to constitute offence u/s.420 of IPC is not made out, cannot be accepted. The allegations are of serious nature. It requires custodial interrogation. Hence, relief u/s.438 of Cr.PC cannot be granted to the applicant. Hence, Anticipatory Bail Application is rejected.

(PRAKASH D. NAIK, J.)

MST