

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3001 OF 2021

RAJNIKANT KANTILAL PATEL)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Sahim D. Ansari, Advocate for the Applicant.

Smt.PP.Shinde, APP for the Respondent – State.

Mr.Rajaram Bansode, Advocate for the Intervenor.

CORAM : V. G. BISHT, J.

**RESERVED ON : 22nd DECEMBER 2021
PRONOUNCED ON : 23rd DECEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 438 of the Code of Criminal Procedure apprehending arrest under Sections 406 and 420 of the Indian Penal Code (IPC) registered vide Crime No.364 of 2021 with Police Station Kharghar.

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2 The applicant, at the relevant time, was running nursery school, namely, Ease Child Development at Kharghar. It is alleged that the applicant induced informant that he would give employment to his wife as a permanent teacher with a monthly salary of Rs.10,000/- and for that sought Rs.14 lacs. However, the applicant did not give any job to his wife. He only returned Rs.4,45,000/- and failed to repay the remaining amount. Informant, accordingly, lodged the First Information Report (FIR).

3 Mr.Sahim Ansari, learned counsel for the applicant, submits that a false complaint has been filed against the applicant. The learned counsel also invited my attention to the Income Tax Returns for the year 2020-2021 filed by the informant himself wherein amount of Rs.14 lacs is shown as a secured loan and this also goes to show that no such amount was ever taken by the applicant from the informant. According to the learned counsel the amount taken by the applicant had been repaid. The learned counsel also invited my attention to the

complaint (Exh. B) written by the informant against the applicant to Senior Police Inspector, Kharghar Police Station and pointed out that most of the part of the complaint is scored out and is inserted by the contents of the present FIR. This also goes to show the ill intention on the part of the informant. In view of above, the applicant deserves to be given the benefit of protection under Section 438 Cr.P.C.

4 Smt.PPShinde, learned APP, on the other hand, opposed the submissions by contending that only amount of Rs.4.50 lacs has been returned and the remaining amount is yet to be returned by the applicant. Investigation is in progress. In view of this, application is devoid of merit and the same is liable to be rejected.

5 I have gone through the papers available on record. The learned counsel has already admitted that the amount was taken by the applicant but the same has been refunded. However, since a big amount was involved and no

acknowledgment or any documentary evidence is forthcoming from the side of the applicant to satisfy this Court that whatever amount the applicant had taken from the informant has been duly refunded. The learned counsel also expressed his inability on this count.

6 Having regard to the accusation, I am of the view that the applicant has failed to make out a case for protection. Hence, the following order :

ORDER

Application is rejected.

(V. G. BISHT, J.)