IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2094 OF 2019

Indus Yuvraj Patil ..Applicant
V/s.
The State of Maharashtra ..Respondent

Mr.Niranjan Mundargi i/b Mr.Kunal D. Ambulkar for the Applicant.

Mrs.M.M. Deshmukh, APP, for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 7 August 2021

P.C.

. The Applicant is seeking anticipatory bail in connection with Crime No.11 of 2017 Police Station Atpadi, District-Sangli under Section 420 and 406 of the Indian Penal Code.

2. The FIR in this case is lodged by one Santosh Nana Mote. It is alleged that the applicant had represented to the complainant, his friend Sachin Karande and others that the applicant would manage to get employment for them as Mathadi Workers at Pune. On such representation the applicant had obtained an amount of Rs.4 lakhs with the assurance to give employment. It appears that the complainant was employed in Tata Motors on 2

January 2010 and his friend Sachin Karande got employment in September 2010. It is alleged that the applicant used to extract the major part of the salary and used to give only Rs.2,500/- to the complainant and his friend for expenses. In the year 2014, the complainant and his friend had lost their job. It is alleged that the applicant extracted further amount with the assurance of re-employment, which did not materialize. It is alleged that the applicant had cheated the complainant and others to the tune of Rs.18 lakhs.

3. On such a complaint an offence came to be registered and after investigation a charge-sheet is filed before the learned Judicial Magistrate First Class at Atpadi, District-Sangli.

4. I have heard the learned counsel for the Applicant and the learned Additional Public Prosecutor. Perused record.

5. The learned counsel for the applicant pointed out that the investigation is complete and the custodial interrogation of the applicant is not necessary. It is pointed out that the Investigating Officer has produced three receipts issued by “Maharashtra Rajya Shramik Mathadi Ani Suraksha Rakshak General Kamgar Union”

("Union" for short) of Rs.1 lakh each purportedly issued by the applicant. It is submitted that no such receipts are issued by the applicant and there is no investigation as to who has issued these receipts. It is submitted that it is improbable that the Union could issue a receipt towards amount obtained on assurance to secure employment. It is submitted that although proceedings for issuance of proclamation were initiated there is no proclamation issued under section 82/83 of Cr.P.C. Thus, there is no prohibition for grant of anticipatory bail. It is pointed out that the applicant has attended the Investigating Officer in pursuance of the order dated 26 September 2019. It is submitted that the complaint is outcome of Union rivalry.

6. The learned Additional Public Prosecutor has pointed out that there is an offence under Section 302 of IPC and under The Maharashtra Control of Organized Crime Act, 1999 ('MCOCA' for short) registered against the applicant. The applicant has not attended the Investigating Officer and has cheated the complainant and others and extorted amount on the assurance of securing an employment and therefore the application be rejected.

7. I have considered the circumstances and the submissions made. *Prima facie* it appears that as per the complainant the amount of Rs.4 lakhs was allegedly obtained by the applicant in November 2009 and the complaint is lodged in January 2017. In the interregnum the complainant and Sachin Karande got employment at Pune. It appears that subsequently in the year 2014 their services were terminated.

8. The learned counsel for the applicant submitted that the applicant was not responsible or competent to remove the complainant or Sachin Karande from services. It is submitted that it is highly improbable that the complainant and Sachin Karande could maintain themselves only on the amount of Rs.2,500/- which was allegedly paid by the applicant. It is submitted that the applicant will surrender before the learned Magistrate within such time as may be directed.

9. In my considered view, there is a substantial delay in filing the complaint about 8 years. The circumstances also indicate that the complainant and his friend were employed. The offence is triable by Magistrate the Investigation is complete and the charge-sheet is filed. *Prima facie* it appears that there is no investigation as

to the person who had issued the three receipts dated 10 October 2015.

10. It is also not shown that there is a proclamation already issued under Section 82/83 of Cr.P.C. declaring the applicant as an proclaimed offender. Insofar as the offence under section 302 of Indian Penal Code and MCOCA is concerned, it is not disputed that the Investigating Officer has filed a final summary under Section 169 of Cr.P.C. and the applicant is absolved of the charges therein. The said fact is recorded by the learned Sessions Judge in his order dated 2 July 2019. The record discloses that the applicant was granted interim protection on 26 September 2019 and the applicant claims that he had attended the Investigating Officer.

11. Considering the overall circumstances, I find that the interim order can be confirmed subject to liberty being granted to the Investigating Officer to carry out further investigation, if any, for which the applicant can be put to condition of attendance.

12. In the result, following order is passed.

ORDER

(i) The Applicant shall surrender before the learned Judicial Magistrate First Class at Atpadi, District-Sangli, within two weeks from today.

(ii) Upon such surrender the learned Magistrate shall release the Applicant on bail on executing a P.R. Bond in the sum of Rs.25,000/-with one or two solvent sureties in the like amount.

(iii) It will be open to the applicant to furnish cash surety for a period of six weeks, after which PR/SB as above shall be furnished.

(iii) The applicant shall not tamper with the prosecution evidence/witnesses.

(iv) The applicant shall attend the Investigating Officer on 23 August 2021 between 11.00 am to 1.00 p.m. and as and when called, and shall co-operate with the Investigating Agency for further investigation, if any.

(v) In the event of breach of any of the conditions, the bail is liable to be cancelled.

C.V. BHADANG, J.