

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.121 OF 2022

SAGAR S/O LAXMAN RATHOD
VERSUS
THE STATE OF MAHARASHTRA

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Mr. A. B. Girase, Advocate for the applicant.
Mr. V. M. Kagne, APP for the respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 21.02.2022

Pronounced on : 25.03.2022

ORDER :-

1. The applicant is apprehending his arrest in connection with Crime No.209 of 202 registered with Dharmabad Police Station, Dist. Nanded for the offences punishable under Sections 420, 465, 468, 471 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. A. B. Girase for the applicant and learned APP Mr. V. M. Kagne for the respondent – State.

3. It has been vehemently submitted on behalf of the applicant that the applicant has been falsely implicated. The real nature of transaction was different. In fact, the applicant had taken hand loan from the informant to the extent of Rs.11,00,000/- and, therefore, he has repaid certain amount. In fact, that amount was together with the amount that

was taken by the co-accused. The applicant has repaid amount of Rs.7,35,000/- and co-accused Rajendra Prasad Tiwari transferred Rs.65,000/- in the account of informant. Another co-accused Rameshwar Govind Chidgire in ABA/1482/2021 assured this Court to deposit amount of Rs.3,00,000/- in the High Court. Accordingly, that amount has been deposited and he has been released on bail. Now, the entire amount has been repaid by the accused persons to the informant. Informant had, in fact, entered into an agreement on 05.07.2019 and, at that time, he has admitted the receipt of amount of Rs.8,00,000/- till that date. There was no question of commission of any offence when the informant, who is the signatory to the agreement, had knowledge about the contents thereof, wherein it was stated by the present applicant that, that amount was taken as loan and not for procuring employment for the informant. The physical custody of the applicant is not necessary and the co-accused has also been released on bail, therefore, on the ground of parity also, the applicant deserves to be released on bail. He is ready to abide by the terms of the bail.

4. Per contra, the learned APP strongly opposed the application and submitted that not only from the informant, but from some other persons also accused persons have collected the amount under the pretext that they would give employment to the informant and others in

railway. The applicant and co-accused have cheated the informant. They have forged the documents in the form of call letter for medical examination, joining letter, physical fitness etc. It appears that there is a racket of the accused, who under the promise of giving employment are extracting money from poor unemployed youth. Possibility of repetition of crime cannot be ruled out and, therefore, he does not deserve to be released on bail.

5. The FIR has been lodged by one Arun Bhagwanrao Kumbhi on 02.09.2021. It is his say that from 01.01.2019 to 11.01.2021, the accused persons, by cheating him, have extracted huge amount in lakhs of rupees under the pretext that they would give employment in railways. He has given all the details as to how the representation was made, how he as well as his friends were taken to Kolkata and how his medical checkup was done etc. However, the first and the foremost fact that is required to be noted is as to whether the ingredients of the offence have been attracted or not even at this *prima facie* stage. When person applies in a Government undertaking or with the Government, then there is procedure that is prescribed. At no point of time in the entire FIR, the informant says that he had ever made inquiry as to how the recruitment process goes on in railways. When in normal course there are competitive exams conducted almost all over the country, then

the candidates are supposed to appear for the exam. Informant does not say that he had appeared for the exam by filling the form. In fact, when he says that he agreed to give amount, he has not stated that he had asked any of the accused persons as to why they need that amount. Secondly, he had not extracted from them that without his attempt for the exam how he can get the employment. This shows that even the informant was of the opinion that he should not compete with others and directly he should receive the job. In other words, the informant agreed to do the illegal activity to secure the job. When it comes to illegal activity in the form that by bribing somebody for securing the job, how offence under Section 420 of Indian Penal Code can be said to have been made out.

6. A document has been produced, which is of course a photocopy by the applicant, which is stated to be notarized document executed on 05.07.2019, in which the applicant has stated that he had taken amount of Rs.11,00,000/- from the informant for his domestic need. The informant is the signatory to the said document. If the said agreement has been signed by the informant, then the entire prosecution story goes away.

7. This Court has granted anticipatory bail to co-accused Rameshwar Govind Chidgire on 17.12.2021 on condition that he should deposit

amount of Rs.3,00,000/- in this Court, which according to the said accused has deposited. There is also evidence to show that certain amount has been paid by this applicant to the informant also. Under the said circumstance, the custodial interrogation of the applicant is not necessary. Making him available for the investigation would suffice. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) The interim protection granted earlier by this Court vide order dated 03.02.2022 stands confirmed and made absolute. In other words, in the event of arrest of the applicant – Sagar Laxman Rathod, in connection with Crime No.209 of 2021 registered with Dharmabad Police Station, Dist. Nanded for the offence punishable under Sections 420, 465, 468, 471 read with Section 34 of Indian Penal Code, he be released on P. R. Bond of Rs.50,000/- with two solvent sureties of Rs.25,000/- each, if not already released.
- III) The applicant shall not indulge in any criminal activity nor shall try to tamper with the evidence of the prosecution, in any manner.
- IV) He shall cooperate with the investigation and shall attend the Dharmabad Police Station on every Monday between 10.00 a.m. to 2.00 p.m., till filing of charge-sheet.

[SMT. VIBHA KANKANWADI, J.]

scm