

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.165 OF 2022

MUKESH S/O HARI MAHAJAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. A. N. Kakade, Advocate for applicant.
Mr. V. M. Kagne, APP for the respondent – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 01.03.2022

Pronounced on : 05.04.2022

ORDER :-

1. The applicant is apprehending his arrest in connection with Crime No.17 of 2022 registered with Raver Police Station, Dist. Jalgaon for the offence punishable under Section 7 of Prevention of Corruption Act.

2. Heard learned Advocate Mr. Amol N. Kakade for the applicant and learned APP Mr. V. M. Kagne for the respondents – State.

3. It has been vehemently submitted on behalf of the applicant that the applicant is a public servant and he is working as a Range Forest Officer in the Forest Department, Tq. Raver, Dist. Jalgaon. He has put in 15 years of service. The informant has intentionally filed a bogus report in order to defame the applicant. The informant states that he had

received the cheque in respect of the work done by him at village Pal, but then he states that the cheque in respect of work done by him at Lohara is yet to be received. In connection with this, when he had gone to meet the applicant; the informant has stated that bribe was asked by the accused stating that because of his positive note, the amount has been released. He demanded 5% of the amount, which was received by the informant for the work done at village Pal. It was amounting to Rs.1,30,000/- i.e. 5% of the said amount. The trap was arranged, however, when it come to the fact of giving, the complainant says that he was called in the car by accused and accordingly, the car was being taken at some place. In the car, the accused asked him as to how much amount he has brought. He told that he has brought Rs.1,15,000/-. When complainant tried to give that amount, the accused told him that he should keep that amount with him. Accused then asked the complainant to get down and get a piece of paper from a Garage nearby and when complainant got down, the accused fled away from the spot in his car. Therefore, that trap was not complete. The custodial interrogation is not necessary. The applicant is ready to abide by the terms of the bail. It was also then pointed out from the documents from forest department that the applicant has taken objections to the work done by the informant and it is stated to be the reason for filing the

complaint.

4. Per contra, the learned APP strongly opposes the application and submitted that specific role is attributed to the applicant. The applicant is a responsible officer, yet demanded bribe i.e. illegal gratification for the bill which was already issued and encashed. The applicant does not deserve discretionary relief from this Court.

5. Perusal of the FIR would show that the complainant is a contractor, who had taken contract at two places i.e. in village Pal and another at Lohara and also Jinsi. The contract was of channeling the fence and gate. He says that he has done the work at village Pal as well as Lohara and he has received the amount for the work done at village Pal. He was yet to receive the cheque for the work done on Lohara and in connection with that he had met the applicant. He then says that the bribe was demanded. As regards the first incident is concerned, he has not given the date, but then he says that he went to Anti Corruption Bureau, Jalgaon on 21.11.2021 and has lodged the report. It is stated that he had received amount of Rs.25,16,446/- for the work done at village Pal and amount of Rs.26,61,639/- was due for the work done at village Lohara and, therefore, he met the applicant on 28.10.2021. But then it appears that he had given complaint with Anti Corruption Bureau

on 22.11.2021 and then the trap was arranged. It also appears that the recording has been done. Panch No.1 was with the informant, but then he was asked to wait outside. The amount appears to have been not accepted by the present applicant. Therefore, there is no question of any recovery from him. Now, it is stated that the voice sample is required to be taken. For that, custodial interrogation is not necessary. Interrogation with the applicant is required, but then that can be made available by imposing condition on the applicant. The fact which is to be noted is that if the complainant had met applicant on 28.10.2021 and had made the demand, then why he had waited till 22.11.2021 to lodge complaint against him. The verification panchanama of the conversation has been provided, wherein it appears that the applicant was taking objection about the work done by the informant. Applicant rather says that unless he does the work properly, his payment will not be released. He was not satisfied about the work done by the informant. Whether entire conversation would lead to inference that there was clear cut demand of bribe itself is a question. How there can be so much conversation is also a surprising fact. The applicant is a Government Servant. There is no question of fleeing away by him. His presence would be then necessary for taking voice sample and for that purpose condition can be imposed. Physical custody of the applicant is therefore not required for the

purpose of investigation and the investigation can take place thereafter also. The application deserves to be allowed. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) In the event of arrest of the applicant – Mukesh s/o Hari Mahajan in connection with Crime No.17 of 2022 registered with Raver Police Station, Dist. Jalgaon for the offence punishable under Section 7 of Prevention of Corruption Act, he be released on P. R. Bond of Rs.25,000/- with one or two sureties of like amount.
- III) The applicant shall not tamper with the evidence of the prosecution in any manner.
- IV) He should cooperate with the investigation and remain present before the Investigating Officer as and when directed, for which the Investigating Officer shall issue notice to him 48 hours in advance.
- V) He shall not refuse or put any kind of excuse when he receives the notice to attend the police station.

[SMT. VIBHA KANKANWADI, J.]