IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.340 OF 2022

VIDYA KISHOR RANDIVE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. V.S. Undre, Advocate for the applicant

Mr. V.M. Kagne, APP for respondent Nos.1 and 2

Mr. R.D. Bhise, Advocate for assist to APP

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 06th APRIL, 2022

ORDER :

1 The applicant is apprehending her arrest in connection with Crime No.43/2022 dated 30.01.2022 registered with Ambajogai City Police Station, Dist. Beed, for the offence punishable under Section 420, 506 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. V.S. Undre for the applicant and learned APP Mr. V.M. Kagne, well assisted by learned Advocate Mr. R.D. Bhise for the informant.

3 It has been vehemently submitted on behalf of the applicant that the applicant has just now got service on compassionate ground in place of her husband, who was working in Zilla Parishad, Osmanabad. She has been falsely implicated and even if we consider the contents of the First Information Report, then, it can be seen that her presence is only shown but it is not stated that any amount was received by her. Accused Santosh is the relative of the applicant and, therefore, she appears to have been involved in the case. She had not demanded money from the informant or any other person nor she had given any kind of promises. The applicant is ready to abide by the terms of the bail.

4 Per contra, the learned APP, assisted by learned Advocate Mr. R.D. Bhise for the informant, strongly opposed the application and submitted that the informant Vivek Ghobale was promised by accused Santosh Sonwane. The accused No.1 was having idea that the informant is trying his luck for the competitive exams by residing at Pune, however, he used to go to his native place. In march, 2018 Santosh Sonwane met the informant and told him that the persons from their caste should get services. He pretended that his relatives are associated or closely in touch with the members of the Maharashtra Public Service Commission and, therefore, it would be easy for the informant to get service, if he spends amount. It was told that he would

be required to spend amount of Rs.8,00,000/-. Informant states that he was promised by the accused No.1 that he would be giving service to him and thereafter when he along with his brother Vishal and father were in the house on 08.03.2018, Santosh Sonwane came along with one Premanand Waghmare, Sunita Waghmare and applicant Vidya Randive. All of them told that he should give at least amount of Rs.5,00,000/-, at that time, for clearing MPSC exam. The said amount was given in cash by the informant and his family members and thereafter, after a while accused Santosh again came and told that they would be required to go to Mumbai and give the remaining amount of Rs.3,00,000/-. Thereafter, the informant and his father along with Santosh Sonwane went to Mumbai on 09.03.2018 in the house of Premanand Waghmare and gave him amount of Rs.3,00,000/-. In all amount of Rs.8,00,000/- was given. At that time, the accused Premanand, Sunita and Santosh assured that he would get the service and his name would be in the list of successful candidates for the exam of the MPSC. However, when the list came, his name was not there and, therefore, he contacted all the four persons. He also met them and told that he has been cheated and, therefore, they should return the amount. At that time, those persons threatened him to kill if he demands the amount. The informant and his family members were continuously asking them to return the amount and then Premanand Waghmare had deposited amount of Rs.50,000/- on 30.04.2019 and another

Rs.50,000/- on 12.06.2019 in the account of the father of the informant. Thereafter, again on 06.02.2020 an amount of Rs.10,000/- and on 13.03.2020 an amount of Rs.20,000/- were deposited in the another account of his father. Thereafter, they were again and again demanding remaining amount of Rs.6,00,000/-, but they have refused. Therefore, he lodged the report. The contents of the First Information Report therefore show active participation by the applicant and, therefore, she is not entitled to get discretionary relief.

5 The contents of the First Information Report are already stated above and, therefore, they are not repeated. The question is - Whether the applicant had taken part in the entire process ? Her presence is definitely stated on 08.03.2018 in the house of the informant along with accused Santosh, Premanand and Sunita. Further fact is that on that day amount of Rs.5,00,000/- was accepted. No doubt, she was not present on 09.03.2018, when the remaining amount of Rs.3,00,000/- was given by the informant and his father to the other accused persons at Mumbai. The applicant is stated to be the resident of Kallam, Dist. Osmanabad, whereas the informant is resident of Ambajogai, Dist. Beed. The applicant has not come with a case that as to why she would have been implicated. Her statement that since she is the relative of accused Santosh, she has been implicated, is not appealing.

Unless she would have been actually present, there was no occasion for the informant to even know her name. Therefore, when she was present, certain talks had taken place and amount of Rs.5,00,000/- had stated to have been given, it shows involvement of the applicant. Therefore, she is not entitled to get discretionary extraordinary relief under Section 438 of the Code of Criminal Procedure. The sympathy on the point of she being widow, lady and serving in Zilla Parishad is of no value, at this stage, and only on that count the discretion cannot be used in her favour. Application stands rejected.

(Smt. Vibha Kankanwadi, J.)

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