IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.467 OF 2022

Indal S/o Bhausing Rajput
...APPLICANT

VERSUS

The State of Maharashtra
...RESPONDENT

...
Mr.Deepak K. Rajput Advocate for Applicant.
Mr.A.M. Phule, A.P.P. for Respondent-State.
...

WITH

ANTICIPATORY BAIL APPLICATION NO.494 OF 2022

Ganesh S/o Kakasaheb Kadu
...APPLICANT

VERSUS

The State of Maharashtra
...RESPONDENT

...
Mr.Vikram R. Dhorde Advocate for Applicant.
Mr.A.M. Phule, A.P.P. for Respondent-State.
...

WITH

ANTICIPATORY BAIL APPLICATION NO.508 OF 2022

Pravin S/o Prabhakar Pawar

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...

Mr.Vijay B. Jogdand Patil Advocate for Applicant.
Mr.A.M. Phule, A.P.P. for Respondent-State.

...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 5th MAY, 2022

ORDER :

1. All the applicants are apprehending their arrest in connection with Crime No.110 of 2022 registered with MIDC Cidco Police Station, Aurangabad for the offence punishable under Sections 420,406, 467, 468 and 471 of the Indian Penal Code.

2. Heard learned Advocates for the applicants in respective applications and learned APP for the respondent – State.

3. It has been vehemently submitted on behalf of all the applicants that the applicants have been falsely implicated. All

the applicants had taken the policy or earlier dealt with Kotak Mahindra General Insurance Company Limited, Mumbai. As regards applicants – Indal Rajput and Pravin Pawar are concerned, they have stated that they have applied for and taken the policy which was for the benefit of treatment under Covid-19. Even applicant – Ganesh Kadu is also saying that he had applied for medical insurance from Kotak Mahindra General Insurance Company, however, he has stated that he had come in contact with co-accused and applicant – Pravin Pawar who was then working with Kotak Mahindra Bank at Nirala Bazar branch, Aurangabad. He says that he has shared his Adhar Card, Pan Card, E-mail ID and even the password also with Pravin Pawar. On the suggestion of applicant Pravin Pawar, applicant Ganesh Kadu states that he had applied for the insurance online. The allegations against all of them are that they had applied for the claim of the insurance on the count that they had contracted the disease Covid-19 and they had taken treatment at Meltron Hospital which was the dedicated Covid center at Aurangabad and as per the policy they were supposed to get the payment at the rate of Rs.6000/- per day. Informant has stated that the amount of claim was not disbursed to applicant Indal Rajput and applicant Pravin Pawar has withdrawn his claim after a certain point of time and applicant Ganesh Kadu has received an amount of Rs.60,000/- towards the claim but according to the said applicant, it was credited to his dormant account and he is ready to repay that amount. Applicant Ganesh Kadu states that he never signed on the claim documents but according to him, co-accused Pravin Pawar, with whom he had shared the documents, has misused the same. Applicant Indal Rajput states that since the amount has not been parted with, there is no question of cheating. He never forged any document. Applicant Pravin Pawar says that though he had claimed the amount till a certain stage, but thereafter he has withdrawn that claim and therefore, the act is not complete.

4. All the three learned Advocates appearing for the respective applicants have submitted that none of their clients have forged the documents and all of them are saying that it has been done by accused No.1 – Asit Jagdish Wagh, who was employed with Kotak Mahindra Company. The custodial interrogation of the applicants is not required and they are ready to abide by the terms of the bail.

5. Per contra, the learned APP strongly opposed all the applications and submitted that as regards applicant Ganesh

Kadu is concerned, he has received the amount through NEFT. Though for applicant Indal Rajput the amount has not been disbursed, yet he has definitely filed his claim on the basis of fake documents and same is the case with applicant Pravin Pawar. Though Pravin Pawar has later on withdrawn his claim, yet there was an attempt by him to claim the said amount but it appears that he might have predicted that he would be made an accused in the case and therefore he has withdrawn the claim, however the act does not go away with this. None of these three accused applicants had taken treatment with the Covid Center, yet along with the claim they have produced discharge cards and the other documents showing that they were admitted in the Covid Center after allegedly contracting the disease. It is definitely required to be seen as to who has prepared or got it prepared the discharge card in respect of each one of them. It can be seen that applicants would be having motive to commit offence because they were supposed to get the amount. Even the stamps and signatures on the Covid certificates have been forged. The instruments used in preparation of false documents are required to be seized. The investigation is at very preliminary stage and therefore, sympathy need not be shown to the applicants.

6. It is the general observation that when there is involvement of money then many times forgery is committed or fake documents are prepared to get the benefit of such documents as well as to get the amount. It appears that with some good intention Kotak Mahindra General Insurance Company had come out with the policy and as it is stated that the premier of the policy was very less, yet in case of contracting the disease and hospitalization, the beneficiary would have got amount of Rs.6000/- per day. From the police papers it appears that the claim was made in respect of all the three applicants before this Court and the claim is submitted along with the documents. Definitely the claim was to receive the amount. To each of the claim, papers were annexed with discharge card and other documents allegedly issued by the Covid Center or places where the treatment was given. Now after the inquiry and investigation, it is transpired that all these three accused applicants never got themselves admitted to the dedicated Covid Center and they were never treated at that place. Naturally, the case as on today stands on the footing that there is discharge card along with the claim applications on which also in the column of declaration by the hospital there is signature as well as handwriting thereby certifying that the particular person has

taken treatment with the said hospital. These documents are, at this stage, turning down to be falsely prepared. Then definitely investigation is contemplated.

7. Now the applicant Ganesh Kadu is making allegations against applicant Pravin Pawar. Applicant Pravin Pawar is making allegations against accused No.1 Asit Wagh. Though applicant Indal Rajput is not making allegations against others, he is only harping upon the fact that he has not received the amount. Though this may be the fact, yet presenting the claim would amount to an attempt to cheat and as regards the documents which were attached to his claim are concerned, those are forged or the result of preparation of false documents. Therefore, independently it would be an offence under Sections 467, 468 and 471 of the Indian Penal Code. Statement about refund of amount by applicant Ganesh Kadu will not solve the problem. It will not wipe out the allegations against him. Further the police papers show that there are other claimants also whose claims have been filed but they had not taken any treatment from the dedicated Covid Center.

8. Requirement of physical custody for further investigation is one of the criteria to be considered at the time of grant or

refusal of the anticipatory bail. However, we are also required to consider the other criteria. The manner in which the offence alleged to have been committed, the benefits at all received or not, availability of the applicant for the purpose of investigation, seriousness of the offence including the social background or platform etc., are the additional factors those are required to be considered. Here, at the cost of repetition, it can be said that with some noble view the scheme was introduced and the policies were given. But by adopting false or illegal means the informant company (through its manager) has been tried to be cheated on the basis of forged or fabricated documents. Under such circumstance, no case is made out for grant of extraordinary discretionary relief under Section 438 of the Code of Criminal Procedure.

9. Therefore, all the three Applications are rejected.

[SMT. VIBHA KANKANWADI , J.]

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