IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1286 OF 2022

ABBAS BABUMIYA SHAIKH (PATEL) AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA
...
Mr. Hamzakhan I. Pathan, Advocate for Applicants
Mr. A. V. Deshmukh, APP for Respondent – State
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 30th NOVEMBER, 2022

PER COURT :

1. Applicants apprehend their arrest in Crime No.312/2022, registered with Gangapur Police Station, Aurangabad, for offence punishable under Sections 465, 471, 468, 420 read with 34 of the Indian Penal Code.

2. Informant Shahebaj Hamid Shaikh lodged FIR alleging that applicant No.1 told him that he secured Government Job for his son by paying Rs.10 Lakhs and he assured informant to secure job for him on payment of amount. On the say of applicants informant transferred Rs.2 Lakhs in the account of one Bhushan on 08/01/2021, from his relative’s bank account. Thereafter appointment order dated 15/02/2021 was given to the informant by accused Dinesh Lehere @ Tambe which contained names of informant and three others. It was having seal and signature of

Selection Committee Officer of General Administration Department. Accused Dinesh claimed to be employee of Collector Office, Ahmednagar. Applicants also told the same to the informant. Appointment order dated 24/02/2021 showing that informant is appointed at Primary Health Center, Ahmednagar on the post of 'Store Keeper' is also given by Dinesh Lehere as per the instructions of applicants. Thereafter applicants and other co-accused called informant Shahebaj to Ahmednagar and again demanded money. On 31/03/2021, informant paid Rs.1 Lakh to co-accused Aditya Kulkarni. On 01/04/2021 he transferred Rs.30,000/-, Rs.35,000/- Rs.500/- and on 12/08/2021 he transferred Rs.1,99,000/- and Rs.1,000/- and also Rs.35,000/-, Rs.500/-, Rs.34,500/- and Rs.30,000/-, in the account of one Siddharth Kamble. Total amount of Rs. 7 Lakhs was paid by informant to co-accused on the say of applicants. The appointment order was forged and fabricated. Hence, he alleged that four accused persons named in the FIR have cheated him and have committed forgery.

3. Heard learned advocate for applicant and learned Additional Public Prosecutor for respondent – State. Perused the investigation papers.

4. It appears from investigation papers that applicant No.1 has played a major role in the alleged offence. Other candidates are

also cheated by applicant No.1 in similar manner. Co-accused Dinesh Lehere and Aditya Kulkarni to whom amounts were paid from time to time by informant on the say of applicant No.1 are yet to be traced, so also Bhushan in whose account on the say of applicants Rs.2 Lakhs were transferred by informant.

5. Taking into consideration the role played by applicant No.1 and serious allegations levelled against him, his custody is necessary for effective investigation. Applicant No.1, therefore, does not deserve discretionary relief. Application of applicant No.1 is, therefore, rejected.

6. So far as applicant No.2 is concerned, there does not appear any material showing his involvement in the alleged crime. In the FIR vague allegations are levelled against him that he was along with applicant No.1 and on their say informant paid money to other co-accused persons. In that view of the matter, applicant No.2 is entitled for relief.

7. Application of applicant No.2 is, therefore, allowed. Interim protection granted to applicant No.2 Syed Mustafa s/o Syed Jahangir, vide order dated 28/09/2022, is hereby confirmed. Till filing of charge-sheet applicant No.2 shall attend concerned police station as and when called by Investigating Officer and shall not tamper prosecution evidence.

8. At this stage, learned advocate for applicants seeks continuation of interim protection granted to applicant No.1, so as to enable him to approach the Hon'ble Apex Court. Interim protection granted to applicant No.1 is extended for a period of two weeks from today.

(NITIN B. SURYAWANSHI, J.)