

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1584 OF 2021

LOKESHWAR S/O SADASHIV SABLE
VERSUS
THE STATE OF MAHARASHTRA

...

WITH
ANTICIPATORY BAIL APPLICATION NO.1586 OF 2021

VIJAY GULABRAO MAPARI
VERSUS
THE STATE OF MAHARASHTRA

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Mr. S. B. Kadu, Advocate for applicants in both the cases.
Mr. N. T. Bhagat, APP for the respondent – State in both the cases.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 21.01.2022

ORDER :-

. Both the applicants are apprehending their arrest in connection with Crime No.476 of 2021 registered with M.I.D.C. CIDCO Police Station, Dist. Aurangabad for the offences punishable under Sections 419, 188, 269, 270 read with Section 34 of Indian Penal Code and under Section 51-B of the Disaster Management Act, 2005.

2. Heard learned Advocate Mr. S. B. Kadu for applicants in both the cases and learned APP Mr. N. T. Bhagat for respondent – State in both the cases.

3. It has been vehemently submitted on behalf of the applicants that the applicants have been falsely implicated. There is no specific allegations against the applicants. The incident took place at Covid Center, Chikalthana, Aurangabad. The applicant in ABA No.1584 of 2021 is working with Karmad Civil Hospital, Dist. Aurangabad, whereas the applicant in ABA No.1586 of 2021 is serving with Agricultural Produce Market Committee, Lonar, Dist. Buldhana. Merely because their names have been taken by the persons, who were arrested, the applicants have been roped. In fact, in the FIR only surnames have been mentioned and the detailed name of the applicants is not reflected. There is no material which is required to be recovered from the accused. So also, only Section 420 of Indian Penal Code is non bailable. The applicants have not cheated anybody. The applicants were released on anticipatory bail by this Court and they have abided by the terms of the bail. The said interim protection deserves to be confirmed.

4. Per contra, learned APP strongly opposes the application and submitted that the FIR has been lodged by in-charge of Meltran Covid Centre. In the pandemic situation, Covid Centres were created and certain facilities were given. Cases were rampant that people used to suppress that they are Covid-19 positive and by showing them that they will get huge returns, certain persons, who are in fact not positive used

to be sent to the Covid Centres. In fact, such persons were put to risk, because there would be positive patients, who are already admitted and then those who are negative had the possibility to get contacted the said disease. Those two persons, who were apprehended in the Centre, disclosed the name of present applicants with the mobile number and it was represented to those two persons who remain with the Covid Centre for 10 days that they would get Rs.10,000/-. Investigation needs to be made to the extent that whether it was a racket and how many persons have done it in the past through the present applicants. The custodial interrogation of the applicants is therefore necessary.

5. At the outset, merely because the interim relief was granted earlier to the applicants does not mean that this Court would confirm it at the end of the final hearing. The evidence collected against the present applicants and the over all seriousness of the offence is then required to be considered. It is to be noted that the FIR was lodged by in-charge of Meltran Covid Center i.e. Dr. Vaishali Mudgadkar. Various Municipal Corporations and Municipal Authorities had opened Covid Centres for treating those covid positive patients. The incident has taken place when it was second wave, which was more serious, as many persons got affected and there were many deaths. The informant states that at about 3.30 p.m. on 13.11.2021, two persons came to the Centre

with reference slip that they are covid positive. It was told by those two persons, namely, Gagan Bhimrao Pagare and Gaurav Govind Kathar that they had got themselves tested for antigen test at the center, which was established at Siddharth Garden. Taking into consideration that reference, treatment was started on those two patients, but after two days those two persons started insisting that they should be allowed to go home or should be shifted to another place. Informant started suspecting about them and, therefore, after checking them, she told that it will not be proper to shift them to another hospital and they should continue with the same Center. She suspected that those two persons would flee away and when she told before the staff that if they tried to flee away, then FIR should be lodged against them, those persons told that they would disclose the real fact. They disclosed that they are not the real positive patients, but their real names were, in fact, Alok Ramesh Rathod and Atul Bhagwan Sadawarte. They also disclosed that they have not undergone any test, but they had received phone call from one Vijay Mapari and Sable, whose mobile numbers have been given, stating that they should remain in the Covid Centre for 10 days and they would give Rs.10,000/- to them. These two persons are the present applicants and applicant - Sable had then left them in his vehicle to the Covid Center.

6. Active role is attributed to the present applicants. Further, the manner in which the offence is stated to have been committed requires thorough investigation to check whether there was a racket in order to extort money and also that some negative persons would have been sent in the Covid Centers by showing them positive which was, in fact, detrimental to their health. Nobody can play with the health of the other and, therefore, taking into consideration the manner in which the offence is stated to have been committed, no case is made out to grant extraordinary relief in favour of the applicants. The applications, therefore, stand rejected.

[SMT. VIBHA KANKANWADI, J.]

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