

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 228 OF 2022

Rajendra Satyawar Ghagare

..Applicant

V/s.

The State of Maharashtra

..Respondent

Ms. Vilasini Balsubramanian i/b Mr. Jaydeep Mane for the Applicant.

Mr. S.R. Agarkar, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

DATE : 14 FEBRUARY 2022

P.C.

1. The Applicant, who is the co-accused, apprehending his arrest, in connection with the investigation of Crime No.718 of 2021 registered with Pandharpur City Police Station, Dist. Solapur under Section 323, 420, 465, 468, 471, 504, 506 read with Section 34 of I.P.C. is seeking pre-arrest bail.

2. The aforesaid crime is registered on the basis of the complaint lodged by Pandurang Gaikwad on 26.11.2021. According to the first informant, he was an aspirant for a job in Railways. The material allegation is that the first informant and several others similarly situated aspirants were assured job in the

Railways by the co-accused Shyam Shelar and his sister Manisha Dighe and others and on such assurance accepted various amounts from the first informant and other candidates. The FIR mentions that a total amount of Rs.45,50,000/- was paid to Shyam Shelar, Kiran Nanaware, Vishal Nanavare and Manisha Dighe. However, they failed to secure job as assured and thereby cheated the first informant and other candidates. On the basis of such complaint, the offence is registered, which is under investigation.

3. I have heard the learned counsel for the parties. Perused record.

4. The learned counsel for the Applicant has filed an affidavit dated 06.02.2022 annexing the bank statement of the Applicant. It is submitted that FIR does not name the Applicant as a person, who had made any such assurance. The Applicant is not a beneficiary of the amount. The learned counsel pointed out from the statement that out of the total amount of Rs.23,45,000/- received in the account of the Applicant, the Applicant has returned an amount of Rs.23,43,000/- to the concerned candidates. It is submitted that the Applicant was only acting as a Mediator and infact had helped the candidates in recovering of the amount.

5. The learned APP has strenuously urged that there are atleast 8 candidates namely Shivaji and others whose amount have not been returned. It is submitted that there are candidates also in Nashik and Solapur district and total amount comes to Rs.76,52,000/- and even after taking into account the amount which has been returned an amount of Rs.52,84,000/- is still to be recovered. He, therefore, submitted that for the purposes of proper investigation of the matter, the custody of the Applicant is required.

6. I have considered the submissions made. Prima facie it appears that the Applicant has not been named in the FIR as one of the persons, who had allegedly made any assurance of securing a job to the aspiring candidates. Quite to the contrary, the FIR mentions that the Applicant had intervened in the matter to secure a refund of the amount paid to the candidates. Prima facie at this stage, there are bank entries which show that out of the total amount of Rs.23,45,000/- received in the account of the Applicant, he has refunded Rs.23,43,000/- to the account of the concerned candidates. At least prima facie, it is not shown that the balance amount which is claimed by the prosecution, is transferred to the account of the present Applicant.

7. Considering the over all circumstances and particularly having regard to the fact that the FIR does not name the

Applicant as a person making the assurance for the job and considering the fact that the Applicant has returned substantial part of the amount which shown to be received in his account, I find that the Applicant can be directed to join the investigation.

8. In the result, the following order is passed:

ORDER

i) In the event of his arrest, in connection with the investigation of Crime No.718 of 2021 registered with Pandharpur City Police Station, Dist. Solapur, the Applicant shall be released on bail on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The Applicant shall report to the Investigating Officer on 21st, 22nd and 23rd February 2022 between 11.00 a.m. to 1.00 p.m. and as and when required by the Investigating Officer.

iii) The Applicant shall co-operate with the Investigating Agency and shall produce all the Bank accounts and record as may be required by the Investigating Officer.

iv) The Applicant shall not leave the jurisdiction of District Solapur without prior intimation/permission of the Investigating Officer until further orders.

iv) Criminal application is disposed of in the above terms.

(C.V. BHADANG, J.)