

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

ANTICIPATORY BAIL APPLICATION NO. 18 of 2022

Dhanraj Baburao Ghogare

..Applicant

Versus

The State of Maharashtra

..Respondents

Mr. Ashok M. Mundargi, Senior Advocate i/by Adv. Jayant Bardeskar
for the Applicant.

Ms. Pallavi N. Dabholkar, APP for the Respondent No.1

Mr. Nitesh Mohite, for the Respondent No.2.

Mr. J. R. Jadhav, API, Wanvadi Police Station, Pune present.

Mr. C. H. Komthe, PSI, Dalwadi Police Station present.

CORAM : NITIN W. SAMBRE, J.

DATE : 21st SEPTEMBER, 2022

P.C.

1. The applicant, a sitting corporator of Pune Municipal Corporation is seeking pre-arrest bail in Crime No. 390 of 2021 registered with Wanawadi Police Station for the offence punishable under sections 409, 406, 420, 323, 504, 506, 507 and r/w 34 of IPC.

2. The prosecution case against the applicant is, complainant was not holding registration with the Pune Municipal Corporation or PWD as contractor and as such, was after the applicant for getting petty civil work/supply work orders of the Corporation.

3. It is claimed that the applicant having accepted an amount of Rs.3,00,000/- as an illegal gratification for providing the work order for execution of civil work/supply orders, not honored the commitment and when the complainant sought refund of the amount, he was assaulted.

4. As a sequel of above, the offence was registered.

5. The contentions of Mr. Mundargi are, the applicant is falsely implicated in the crime. So as to substantiate his contentions, he would invite my attention to the factual matrix viz. the amount alleged to have been paid by the complainant to the applicant and other persons for the purpose of securing petty civil contracts, so also the supply orders from the Corporation.

6. According to him, the applicant has not received any such money in cash. It is further claimed that the offence is based on the alleged incident on 18/10/2021 when the complainant claimed that he was abused, assaulted when he went for asking return of amount of Rs.3,00,000/-.

7. He would further urge that there is an unexplained delay of about 10 days in lodging FIR as the complaint was lodged on 28/10/2021.

8. In addition, he would invite attention of this Court to an

incident of 28/10/2021 wherein an allegation is made against the applicant by the complainant that the applicant with the help of his supporters/co-accused has forced the complainant to swear an affidavit in favour of the applicant thereby settling the aforesaid dispute.

9. As such, according to Mr. Mundargi the applicant is falsely implicated in the crime. He would further urge that the applicant has social and political identity in the society and as such has deep roots. According to him, the applicant is available for the investigation.

10. The learned APP would oppose the prayer. The learned APP is also supported by learned counsel for the complainant who submits that the custodial interrogation of the applicant is required considering the serious offence in which the applicant is involved.

11. With the assistance, I have perused the investigation papers.

12. The applicant, as elected councillor is a public servant can be in an undisputed position and as such, it can be tried under the provisions of Prevention of Corruption Act, can be inferred.

13. The fact remains that, the allegation against the applicant is that of acceptance of gratification of amount of Rs.3,00,000/- with

a promise to award petty civil contracts to be executed under the supervision of the Pune Municipal Corporation. The complainant was also promised of certain supply orders during the pandemic.

14. The fact remains that there was a telephonic conversation recorded, the transcript of which is part of the investigation papers. The transcript in categorical terms provides that the applicant not only indirectly acknowledging the amount having been received but also about promise for issuance of work order and also drawing the bills from the corpus of the Corporation, without even executing the work.

15. This sufficiently establishes the involvement of the applicant in the offence in question wherein he being a public servant as a Corporator not only had an intention to commit fraud on the public exchequer by drawing bills but has also promised the complainant of securing the petty civil contract for him.

16. The conversation expressly establishes that the applicant has promised refund of amount which was accepted by him. As such, it can be inferred from the records not only the applicant has received the amount of gratification but has also promised the issuance of work order for execution of civil work for the Pune Municipal Corporation so also the supply orders.

17. Apart from above, claim of the complainant that he was abused, assaulted appears to be fortified in the backdrop of the aforesaid contentions. There is enough material on record collected during the investigation to infer the prima facie involvement of the applicant in serious offence.

18. In this background, no case for grant of anticipatory bail is made out.

19. The application as such fails and same stands rejected.

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(NITIN W. SAMBRE, J.)