

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. ANTICIPATORY BAIL APPLICATION NO. 216 OF 2022

Somnath Suresh Zende

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr. Aniket U. Nikam i/b. Mr. Amit. R. Icham, for the Applicant.

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

Dy.S.P. Kranti N. Pawar ACB Pune.

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CORAM : C.V. BHADANG, J.
DATE : 4 FEBRUARY 2022
(Through Video Conferencing)

P.C.

. The Applicant, apprehending arrest, in Crime No.1594/2021 of Police Station Chakan, Pune, under Section 7, 7A and 12 of the Prevention of Corruption Act, 1988, is seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of complaint lodged by Ankit Bhujbal. He states that the co-accused Mr. Sheikh had asked the informant to visit Chakan Police Station in connection with a complaint said to be lodged by the uncle of the informant Hiranman Bhujbal against the father of the first informant. Accordingly, the informant alongwith his father had visited Chakan Police station. Mr. Sheikh had taken them to the Applicant who is

working as a Police Sub Inspector (PSI). The Applicant is alleged to have told the informant that he did not accept the complaint of Hiranman Bhujbal and asked the informant to pay Rs.70,000/- to show the favour of not registering an offence against his father. Mr. Sheikh asked him to pay Rs.15,000/- for himself.

3. The informant lodged a complaint with Mr. Patil of Anti Corruption Bureau (ACB). Accordingly, a trap was planned on 29 December 2021. The informant met Mr. Sheikh with the panchas and a voice recorder and the aspect of demand by Mr Sheikh of Rs.85,000/- was verified. However, the informant could not meet the Applicant. Hence, he again went to the police station with the panch Hanumant Jadhav when Mr. Sheikh is alleged to have told the informant that the Applicant has gone out and managed to connect the informant with the Applicant on phone. According to the informant, the Applicant is alleged to have told the informant that Mr. Sheikh is his man and directed him to act as per the instructions of Mr. Sheikh. Thereafter, the trap was laid at about 8.00 p.m. in which Mr. Sheikh is alleged to have obtained Rs.85,000/- in a white colour vehicle bearing No. MH-12-KY-0069 standing near the police station. Significantly, according to the informant, only Rs.20,000/- currency notes, out of Rs.85,000/-, were genuine notes, the rest being lookalikes. The informant gave the predetermined signal when the other members of the raiding party came and the

co-accused Mr. Sheikh was arrested. After completion of the formalities, the offence came to be registered which is under investigation.

3. I have heard the learned counsel for the Applicant and the learned APP. Perused record.

4. It is submitted by the learned counsel for the Applicant that the Applicant has no role to play in the incident. It is pointed out that the Applicant has neither demanded nor accepted any amount from the informant, much less to show any favour in the discharge of the official duty. It is submitted that the Applicant has been falsely implicated. It is submitted that the co-accused was arrested and all the necessary seizures are made and the custodial interrogation of the Applicant is not necessary.

5. The learned APP has submitted that the co-accused Mr. Sheikh was acting for and on behalf of the Applicant and had accepted the amount on behalf of the Applicant. He pointed out telephonic conversation between co-accused Mr. Sheikh and the informant as well as What's App chat between the parties. It is submitted that the vehicle in which the amount is accepted is belonging to the Applicant. He therefore submitted that custodial interrogation of the Applicant is necessary.

6. I have considered the submissions made. Admittedly, Mr. Sheikh is not a public servant. He is a private individual. All along, the case is that Mr. Sheikh called the informant to the police station in connection with a complaint lodged by his uncle. The amount is also said to be accepted by Mr. Sheikh and not by the Applicant. The Applicant was attached to the police station where the car was parked in which the amount is allegedly accepted. *Prima facie*, at this stage the material which is relied upon is in the nature of the telephonic conversation and the What's App chat which have already been seized. I have gone through the transcript in which all that the Applicant is alleged to have responded is 'Hmm'. The co-accused who has accepted the amount was arrested and has been released on bail. It was informed that till today no departmental action is taken against the Applicant. Considering the overall circumstances, in my considered view, custodial interrogation is not warranted and the Applicant can be directed to join the investigation. Hence, the following order is passed.

ORDER

- (i) In the event of his arrest, in connection with investigation of Crime No.1594/2021 of Police Station Chakan, Pune, the Applicant be released on bail on executing a P.R. 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 9/2/2022, 10/2/2022 and 11/2/2022 between 11.00 a.m. to 1.00 p.m. and as and when required by the Investigating Officer.
- (iii) The Applicant shall surrender his passport, if any, before the Investigating Officer.
- (iv) The Applicant shall also surrender his mobile phone before the Investigating Officer.
- (v) The Applicant shall not leave the Headquarter without prior intimation / permission of the Investigating Officer.
- (vi) The Applicant shall not make any attempt to directly or indirectly contact or coerce the Complainant or any other prosecution witnesses and shall not otherwise tamper with the prosecution evidence in any manner.
- (vii) In the event of breach of any of the conditions, the bail is liable to be cancelled.
- (viii) Liberty to the prosecution to apply for modification in the event there is any further material disclosed during the course of investigation.
- (ix) The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.