

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1759 OF 2022

Radha Dinakar Mahale

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Akshay Bankapur, for the Applicant

Ms. M.R. Tidke, APP, for the State.

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CORAM : N. J. JAMADAR, J.

DATE : JUNE 30, 2022

P.C.:

1. The applicant who is arraigned in C.R. No. 63 of 2022 registered with Abhona police station, Nashik for the offences punishable under sections 7 and 12 of the Prevention of Corruption Act, 1988 has preferred this application to enlarge her on bail.

2. Dinesh Khandvi (the first informant) transports sand in a tractor. On 11th March, 2022 the applicant who is posted as Talathi at Jaydar, Tal. Kalvan, Nashik and the co-accused Popat Bhoje who is posted as a Kotwal intercepted the tractor laden with sand. The applicant threatened to seize the tractor. When the first informant implored her not to take action, the applicant demanded a bribe of Rs. 40,000/- to refrain from taking action. The first informant arranged a sum of RS. 10,000/- and handed over the same to the

applicant. However, the applicant insisted for balance payment and asked the informant to pay Rs. 30,000/- on 15th March 2022 to the co-accused Popat Bhoje. The applicant further demanded the first informant to make periodical payments (Hafta) if he wished to continue the said business of transportation of sand. The first informant thus approached Anti Corruption Bureau. Telephonic conversation between the applicant and the co-accused Popat Bhoje came to be recorded. A trap was laid. However, sensing something amiss, the applicant refused to accept the amount. Since the applicant had initially accepted, and also demanded, bribe, the applicant came to be apprehended.

3. The learned counsel for the applicant submitted that there is no material to show that the applicant had obtained undue advantage. On the contrary, the trap panchanama shows that the applicant categorically refused to accept any amount and asserted that she does not indulge in such activities. Thus, the offences punishable under sections 7 and 12 of the Prevention of Corruption Act cannot be said to have been made out. In any event, further detention of the applicant is not warranted. Moreover, the applicant has a three and half year old son, who is unwell. Therefore, the applicant deserves to be enlarged on bail.

4. The learned APP resisted the application. Attention of the Court was invited to the transcript of the conversation between the applicant and the co-accused, wherein the applicant directed the co-accused not only to accept the balance amount of Rs. 30,000/- but also demand and accept Rs. 30,000/- per month from the first informant as illegal gratification for not initiating action against the first informant. Therefore, the applicant does not deserve to be released on bail, urged the learned APP.

5. From the perusal of the material on record, it becomes evident that the applicant did not accept any amount on the day, the trap was laid. On the contrary, the applicant professed to disown the previous conversation and understanding between the applicant and the first informant. The acceptance of undue advantage, therefore, cannot be said to have prima facie made out at least on the day the trap was laid.

6. The first informant however alleges that a sum of Rs. 10,000/- was accepted by the applicant on 11th March, 2022. The transcript of the telephonic conversation between the applicant and the co-accused prima facie indicates that the applicant had agreed to accept undue advantage. Nonetheless the material on record

indicates that the investigation is practically complete for all intent and purpose. Further detention of the applicant does not seem warranted. Since the applicant is a public servant and appears to have roots in the society the possibility of fleeing away from justice seems to be extremely remote. In the backdrop of the nature of the occurrence, the possibility of tampering with evidence and threatening the prosecution witnesses also seems remote. In any event, the apprehension on the part of the prosecution can be taken care of by imposing appropriate conditions.

Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant Radha Dinakar Mahale be released on bail in connection with C.R. No. 63 of 2022 registered with Abhona police station, Nashik on furnishing a P.R. Bond in the sum of Rs. 25,000/- and one or two sureties in the like amount, to the satisfaction of the learned Special Judge.
- 3] The applicant shall cooperate with the investigation and report to the investigating officer as and when directed.

4] The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

5] The applicant shall regularly attend the proceedings before the jurisdictional Court.

6] By way of abundant caution, it is clarified that the observations made hereinabove are confined to the consideration of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant.

(N. J. JAMADAR, J.)