

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2245 OF 2021

Seema Shirish Waghmode ...Applicant

Vs.

The State of Maharashtra ... Respondent

WITH

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1821 OF 2021

Prasad Kishor Sonavane ...Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Amol P. Deshpande for the Applicant in ABA No.2245 of 2021.

Mr.Sanjeev P. Kadam a/w Mr.Prashant Raut and Ms.Varsha Thorat i/b Bhalchandra Shinde in ABA No.1821 of 2021.

Mr.Y.Y. Dabke, APP for the Respondent-State.

Mr.S.M. Khandekar, API, Dattawadi Police Station, Pune City.

CORAM : C.V. BHADANG, J.

DATE : 2 MARCH 2022

P.C.

. These Applications, seeking anticipatory bail, arise out of Crime No.106 of 2021 of Dattawadi Police Station, Pune, under Section 406, 409, 420 read with 120B of the Indian Penal Code.

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2. The aforesaid Crime is registered on the basis of the complaint dated 11 May 2021 lodged by Prakash Vhatkar, Nayab Tahasildar, Pune.

3. The Supreme Court in Criminal Appeal No.135 of 2010 had given direction for providing financial assistance to Commercial Sex Workers (CSW's) who have been rescued from the flesh trade. The State Government as per Government Resolution dated 26 November 2020 had decided to provide financial assistance of Rs.15,000/- each to such women during the Covid-19 pandemic. A Committee was constituted at District Level for distribution of the said benefits.

4. The prosecution case, in short, is that the list of the beneficiaries prepared for the purpose of the distribution of the said amount contained several names which were not eligible for such benefit as per scheme. There were complaints received from some non-government organizations and individuals about the irregularities in the matter of preparation of such list of the beneficiaries and of opening of the bank accounts. There were also allegations about the receipt of commission from such beneficiaries from out of the amount of financial assistance.

5. The Applicant Prasad Sonavane in ABA No.1821 of 2021 (Accused No.4) is working as District Program Officer in

Health Department in District Aids Prevention and Control Unit (DAPCU).

6. The Applicant Seema Shirish Waghmode is a trustee of Kayakalpa Society which is an NGO which was involved in the preparation of the list of beneficiaries as per scheme.

7. I have heard the learned counsel for the Applicants and the learned Additional Public Prosecutor. With the assistance of the learned counsel for the parties I have gone through the record.

8. Insofar as the Applicant Prasad Sonavane is concerned he is a District Program Officer (DAPCU). At this stage it is not shown that he was responsible for verification of the names of the beneficiaries in the list.

9. The learned Additional Public Prosecutor has pointed out that there are statements of six witnesses who state that the Applicant made a demand of a commission of Rs.3,000/- from out of the financial assistance. However, the learned Additional Public Prosecutor, in all fairness, did not dispute that none of the witnesses have claimed that any such amount was actually paid by any of the beneficiaries to the Applicant. Thus, it can *prima facie* be seen that the Applicant has not been shown to

be responsible for verification of the names in the list of the beneficiaries, nor there is any material to show that he had been paid or has received any amount by way of commission from the financial assistance paid to the beneficiaries which was required to be transferred directly to the bank accounts of the beneficiaries

10. The learned Additional Public Prosecutor submitted that at any rate, this would indicate an absence of due diligence on the part of the Applicant Prasad Sonavane in verifying the credentials and the entitlement of the beneficiaries under the scheme. It is pointed out that departmental action is taken against the Applicant and he has been placed under suspension.

11. In my considered view the departmental action would be an independent service matter between the Government and the Applicant Prasad Sonavane. Presently I am only concerned with the crime registered against the Applicant, the nature of the allegations and the material collected and a need for custodial interrogation in the context of a claim for pre-arrest bail.

12. The record discloses that this Court (Sarang Kotwal, J.) by an order dated 7 September 2021 has granted interim protection to the Applicant Prasad Sonavane on condition of attendance with the concerned Police Station. It is not disputed

that the Applicant has reported and has co-operated in the investigation.

13. Coming to the case of Seema Waghmode, she is a trustee of Kayakalpa which was part of the implementation of the said scheme.

14. The learned counsel for the Applicant submits that the Applicant is about 64 years old and is in the field of rehabilitation and welfare of CSW's for more than 20 years. It is submitted that during the period of lock down the Applicant was at her native place at Baramati and has no role to play in what happened in the Office of the said Society at Pune.

15. It transpired during the course of the hearing that the Applicant has not signed on the list of the beneficiaries and her name also does not figure in the matter of the allegations of the demand or acceptance of any commission. The record discloses that this Court (Sarang V. Kotwal, J.) by an order dated 20 September 2021 has granted interim protection to the Applicant Seema Waghmode on condition of attendance with the concerned Police Station. It is not disputed that the Applicant has reported and has co-operated in the investigation.

16. Considering the overall circumstances the following order is passed.

ORDER

(i) The Criminal Application No.1821 of 2021 is disposed of in terms of the order dated 7 September 2021, which is hereby made absolute subject to the condition that the Applicant shall report to the Investigating Officer as and when required and shall co-operate with the investigation.

(ii) The Criminal Application No.2245 of 2021 is disposed of in terms of the order dated 20 September 2021 subject to the condition that the Applicant shall report to the Investigating Officer on 14, 15 and 16 March 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 not tamper with the prosecution evidence/witnesses.

C.V. BHADANG, J.