

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3808 OF 2021

Rajendra @ Raj Kamalshankar Mishra .. Applicant

Versus

The State of Maharashtra .. Respondent

...

Mr. Swaraj S. Jadhav for the applicant.

Mr.S.V.Gavand, APP for the State.

API Shri Jayesh Chavan from Rabale police station.

CORAM: BHARATI DANGRE, J.

DATED : 27th JULY, 2022

P.C:-

1 The applicant is charged in C.R.No.102/2021 which invoke Sections 418, 420, 465, 468, 470, 471, 500, 188 and 34 of the IPC registered with Rabale MIDC Police Station.

2 On completion of the investigation in the said C.R, charge-sheet has been filed against three accused persons, the accused no.1 and 2; being the proprietors of the Diagnostic Centers. The case of the prosecution is Pravin Industries entered into an agreement with Midtown Diagnostic Laboratory, Thane to conduct RTPCR test of it's employees, since the Company was entrusted in resuming its functioning and require mandatory RTPCR test as per the norms. Midtown Diagnostic Laboratory

represented that they shall conduct the tests in collaboration with one Perfect Health Pathology Laboratory, Kalyan, which was authorized and was assigned a source code to collect RTPCR samples. On behalf of the informant i.e. Thyrocare, a Pathological laboratory which was an authorized agency to carry out covid tests. Accordingly, accused no.2 Mohd. Vasim Aslam Shaikh collected samples of 133 employees of Pravin Industries on 8/4/2021 and the allegation is, that all the reports were manipulated as 'negative'.

3 As far as the present applicant is concerned, he is an employee of Downtown Diagnostic Laboratory, Thane and the charge-sheet attribute him the role of noting down the names and the Aadhar card i.e. the clerical job which was required to be undertaken. The applicant received the reports of the employees whose RTPCR samples were collected and on his whatsapp from Accused no.2, he informed the accused no.1 about the report being received. It is informed that the reports of all 80 employees were reported to be negative of Covid tests.

4 Thyrocare Limited, however, later on, found out on scanning of the reports that they have the same barcode of a strange person who was not the employee of Pravin Industries whose samples were collected for undertaking the tests.

5 The entire charge-sheet on record only assign this limited role to the applicant, who is a young lad, aged 21 years

and was working as an office boy with Midtown Diagnostic Laboratory. He cannot be attributed any *mens rea* for committing the offence which was the mastermind of the proprietor of Midtown Diagnostic Laboratory.

6 In any case, the owner of the said laboratory face a serious accusation along with the other accused no.2, who has collected the samples.

7 In the wake of the role attributed in the charge-sheet, he deserve his release on bail. Hence, the following order :-

ORDER

(a) The Applicant – Rajendra @ Raj Kamalshankar Mishra in connection with C.R.No.102/2021 registered with Rabale MIDC Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

(b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.

- (e) The applicant shall not leave the State without prior permission of the Sessions Judge and shall mark his attendance on first Monday of trimester.

The Application is allowed in the aforesaid terms.

(SMT. BHARATI DANGRE, J.)