

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2659 OF 2021**

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Vishal alias Nathaba Shahaji Waghmare ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Niranjan Mundargi, i/b Yuvraj Patil, for the Applicant.
Mr. Y. Y. Dabke, APP for the State.

CORAM: N. J. JAMADAR, J.

DATED : 14th JULY, 2022

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No.539/2021, registered with Baramati Police Station, District Pune, for the offences punishable under Sections 420, 384 and 506 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code"), Section 7 of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and Section 3 of the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and *Aghori* Practices and Black Magic Act, 2013.
3. Mr. Shashikant Kharat (the first informant) lodged a report with the allegations that his father Subhash was detected with cancer. He was adviced surgery. First informant's friend

Shivaji Pawar took the informant to the Hermitage (*mutt*) of the Manohar Mama Bhosale, accused no.1. The applicant Vishal Waghmare claimed to be the disciple of Manohar Mama (A1). The first informant was made to pay a sum of Rs.5,000/- to seek the blessing of Manohar Mama (A1), and solution to the problem which the first informant was facing. Manohar Mama asked the first informant to bring a sum of Rs.1,25,000/- by way of offering (*chadhawa*). On that day, the applicant allegedly made the first informant to pay a sum of Rs.1,300/- for a religious ritual (*abhishek*). On 13th September, 2018, the first informant claimed to have placed a cash amount of Rs.1,25,000/- on the feet of Manohar Mama (A1). Manohar Mama gave a concoction of some ingredients to the first informant. Despite consumption, there was no improvement in the health of the father of the first informant. He again went to Manohar Mama and informed him that the doctors have advised immediate surgical intervention. Manohar Mama again asked him to bring a sum of Rs.1,00,000/- and keep the same at Undargaon Mutt. At that time, the applicant allegedly drove the first informant to Undargaon *Mutt* in a car SUV No.MH43.0040. There was no improvement in the condition of first informant's father. The first informant realised that he was duped to the

tune of Rs.2,51,500/-. When he demanded the refund of the said amount, co-accused Onkar Shinde allegedly threatened the first informant. Hence, the report.

4. Apprehending arrest, the applicant preferred an application for pre-arrest bail. On 22nd November, 2021, this Court was persuaded to grant interim protection from arrest.

5. I have heard Mr. Mundargi, the learned Counsel for the applicant, and Mr. Dabke, the learned APP for the State.

6. Mr. Mundargi submitted that the allegations are primarily against Manohar Mama, the principal accused. In fact, the applicant was induced to believe in the prowess of Manohar Mama (A1). The applicant neither induced the first informant to part with money nor the applicant derived any benefit from the deception practiced by Manohar Mama (A1).

7. Mr. Dabke, the learned APP, on the other hand, submitted that the applicant had an active role in the alleged offences. A number of persons have been duped by the accused. Custodial interrogation is therefore warranted.

8. I have perused the allegations in the first information report and the copies of the statements of witnesses recorded during the course of investigation.

9. It seems that taking undue advantage of the helpless situation of persons, who find themselves in challenging circumstances, on account of physical, financial, or other problems, the accused allegedly represented that they would provide remedies. Manohar Mama (A1) allegedly claimed himself to be an incarceration of 'Balu Mama'. *Prima facie*, the allegations in the first information report, if considered from the standpoint of a person whose near and dear one suffers from a dreaded disease like cancer, cannot be brushed aside as a concoction. In such a situation, often emotion overpowers over reason.

10. The aspect which warrants consideration is the element of complicity of the applicant. The allegation in the first information report are primarily against Manohar Mama (A1). The representations that the father of the first informant would be cured were allegedly made by Manohar Mama (A1). A magic potent was given by accused no.1. The first informant allegedly paid a sum of Rs.1,25,000/- to Manohar Mama (A1) on the first occasion. He was made to leave a sum of Rs.1,00,000/- in the *Mutt* at Undargaon for Manohar Mama (A1). Manohar Mama (A1) was arrested.

11. The allegations against the applicant are that he claimed to be the disciple of Manohar Mama. He had initially made the first informant to part with a sum of Rs.5,000/- and, later on, pay Rs.1,300/- for ritual (*abhishek*). Apart from these allegations, the first informant does not attribute any role to the applicant.

12. In the aforesaid view of the matter, since the interim protection is in operation from 22nd November, 2021 and the custodial interrogation of the applicant does not seem imperative for effective investigation, as the principal accused Manohar Mama (A1) was arrested, I am inclined to exercise the discretion in favour of the applicant.

13. Hence, the following order:

: O R D E R :

- (i) The application stands allowed.
- (ii) In the event of arrest of the applicant – Vishal alias Nathbaba Shahaji Waghmare, in CR No.539/2021, registered with Baramati Police Station, District Pune, he be released on bail on furnishing a P. R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount.

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

(iv) The applicant shall cooperate with the investigation and report to the Investigating Officer as and when directed.

(v) The applicant shall not indulge in the activity identical to the one for which he is arraigned in the instant case.

[N. J. JAMADAR, J.]