

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

ANTICIPATORY BAIL APPLICATION NO. 2867 of 2021

Dhanraj Baburao Ghogare	..Applicant
Versus	
The State of Maharashtra & Anr.	..Respondents

Mr. Ashok M. Mundargi, Senior Advocate i/by Adv. Jayant Bardeskar
for the Applicant.

Ms. Pallavi N. Dabholkar, APP for the Respondent No.1

Mr. Nitesh Mohite, for the Respondent No.2.

Mr. J. R. Jadhav, API, Wanvadi Police Station, Pune present.

Mr. C. H. Komthe, PSI, Dalwadi Police Station present.

CORAM : NITIN W. SAMBRE, J.

DATE : 21st SEPTEMBER, 2022

P.C.

1. The applicant, a sitting corporator of Pune Municipal Corporation is seeking pre-arrest bail in Crime No. 244 of 2021 registered with Duttawadi Police Station for the offence punishable under sections 363, 468, 506 and r/w 34 of IPC.

2. The prosecution case against the applicant is, complainant was not holding registration with the Pune Municipal Corporation or PWD as contractor and as such, was after the applicant for getting petty civil work/supply work orders for the Corporation.

3. It is claimed that the applicant having accepted an amount

of Rs.3,00,000/- as an illegal gratification for providing the work order for execution of civil work/supply orders, not honored the commitment and when the complainant sought refund of the amount, he was assaulted. As a sequel of above, the offence was registered.

4. In the said proceeding, the applicant alleged to have moved for grant of pre-arrest bail. During the pendency of such anticipatory bail application the complainant claimed that he was abducted, forced to sworn affidavit about settling dispute, which fact since brought to the notice to the police, same has resulted into registration of the offence.

5. I have heard Mr. Mundargi, learned senior counsel appearing for the applicant. According to him, apart from the fact that applicant was not available in Pune on 28/10/2021 as there is a travel history of the applicant of having travelled to Tirupati. The case of the prosecution is not supported by the statement of Nazir before whom the complainant has claimed to have sworn an affidavit under pressure from the applicant and other co-accused.

6. Mr. Mundargi, as such would urge that the affidavit which was sworn was voluntarily and that being so, it cannot be said that the applicant's custodial interrogation in the offence is required.

7. The learned APP would urge that the CCTV footage so also the statement of Nazir establishes the presence of the complainant in the Court premises on 28/10/2021 for the swearing of the affidavit. She would urge that the complainant has claimed that he has disclosed the fact that he was forced to swear the affidavit thereby settling the dispute. According to her, in this background, considering the fact that the complainant was present in the Court for swearing an affidavit and he was forced to swear the affidavit during the pendency of the anticipatory bail application of the applicant in Crime No.390 of 2021, a case for custodial interrogation and prima facie involvement in serious offence is made out.

8. I have appreciated the said submissions.

9. Apart from the fact that the investigation is not carried out as to whether the applicant was present on the date of the incident i.e. 28/10/2021 in the Pune City, the fact that Nazir has given a statement about the complainant having not raised any objection that he was forced to swear an affidavit can be inferred from the record.

10. The fact remains that the affidavit was duly sworn by the complainant. The only thing is whether such affidavit was sworn

by the complainant under pressure of the applicant can be looked into during the course of the investigation.

11. For the said purpose, the custodial interrogation of the applicant is not required particularly when it cannot be inferred as to the presence of the applicant and his involvement in the offence alleged.

12. In that view of the matter, a case for grant of ad-interim protection is made out.

13. In the event of arrest of applicant in Crime No. 244 of 2021 registered with Duttawadi Police Station for the offence punishable under sections 363, 468, 506 and r/w 34 of IPC applicant be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

14. The applicant shall attend the Investigating Officer as and when directed.

15. The applicant shall neither tamper with evidence nor influence the witnesses in any way.

16. The application stands disposed of.