

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 568 OF 2023

Rajesh Pandurang Kamble,
Age : 49 years, Occ. Labour,
R/o. Dam Road, Samta Nagar,
Tq. Udgir, Dist. Latur

...Applicant

Versus

The State of Maharashtra,
Through Police Inspector,
Udgir City Police Station,
Tq. Udgir, Dist. Latur.

...Respondent

Mr. A. N. Sabnis, Advocate for the Applicant.
Mr. G. O. Watamwar, APP for Respondent – State.

CORAM : R.M. JOSHI, J.

**RESERVED ON : JUNE 06, 2023
PRONOUNCED ON : JUNE 09, 2023**

ORDER

1. Applicant is apprehending arrest in connection with Crime No. 75/2023 registered with Udgir City Police Station, Tq. Udgir, Dist. Latur for the offences punishable under Sections 420, 467, 468, 471 read with Section 34 of the Indian Penal Code.

2. Ganpat Pawar, Joint District Registrar, Class I gave report to the police about receiving direction from Collector, Latur to lodge first information

report. It was found that in the year 2015-2016 the work of data entry was assigned to M/s. Rudrani Infotech and accordingly Applicants were working as the Data Entry Operators in the office of Joint Sub-Registrar, Class II, Udgir. In respect of the documents registered during the said period, an inquiry was conducted wherein it was found that the E-challans were reused without defacing them and thereby loss is caused to the revenue of the State. As far as the present Applicant is concerned, it is alleged that in the capacity of constituted attorney of co-accused Shivaji Haibatpure he has received the refund of Rs. 22,500/- towards the stamp duty.

3. Learned Counsel for the Applicant states that there is no allegation against the Applicant about he having received any amount for himself and merely because he was authorized by the co-accused to receive the said amount on his behalf, Applicant cannot be held responsible for the alleged offence. It is submitted that there is no allegation that any false document is prepared by the present Applicant including power of attorney of Shivaji Haibatpure. Thus, according to him,

there is no evidence to connect the Applicant with the crime in question.

4. Learned APP opposed the said submissions by stating that the Applicant in collusion with co-accused Shivaji Haibatpure has received the amount which was not due and entitled by him. The fact that he received the said amount itself is sufficient to infer his involvement in the crime.

5. Perusal of the record indicates that the allegations in the FIR pertain to the reuse of challans for registration of different documents without defacing the same. It is also alleged that one refund of stamp duty was sought by Shivaji Haibatpure and the said refund was allowed and which was received by the present Applicant in the capacity of his constituted attorney. There is absence of any allegation against Applicant of creating any forge document or inducing the authorities to pay the amount to him. It is also not the case that the said amount was not received on behalf of Shivaji Haibatpure nor Shivaji Haibatpure claims that the Applicant has obtained any power of attorney from him and has appropriated amount. For want

of any such allegation against Applicant, merely because he has received amount on behalf of co-accused, he cannot be treated as party to the commission of crime. This *prima facie* observations are inevitable considering the material on record.

6. By passing interim order dated 30th March, 2023 the liberty of the Applicants was protected and he was directed to appear before the Investigating Officer as and when required for the purpose of investigation. There is nothing to show that the said liberty was misused by him. Having regard to the facts and circumstances of the case and more particularly in view of the fact that the custodial interrogation of the Applicant is not necessary, it is a fit case to confirm the interim order. Accordingly, application stands allowed on the same terms and conditions imposed vide order dated 30th March, 2023.

(R.M. JOSHI, J.)

Malani