

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 664 OF 2023

Satish Narharrao Vidolkar ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. S. S. Deshmukh, Advocate for the Applicant.

Mrs. G. L. Deshpande, APP for Respondent.

Mr. S. S. Londhe, Advocate for informant to Assist to APP.

CORAM : R.M. JOSHI, J.

RESERVED ON : JULY 04, 2023

PRONOUNCED ON : JULY 11, 2023

ORDER

1. Applicant apprehends arrest in connection with Crime No. 39 of 2023 registered with Narsi Namdev Police Station, Dist. Hingoli for the offences punishable under Sections 420, 406, 409, 465 of Indian Penal Code.

2. The administrative trustee of Shri. Sant Namdeo Sansthan (for short 'Sansthan') gave report to the police informing that an application came to be filed bearing no. 617/2016 before learned Assistant Charity Commissioner, Hingoli (for short 'ACC') wherein

there was allegation made about the corrupt activities of present Applicant. It is alleged that though Applicant was not appointed as Chairman of the Sansthan, he posed himself to be so and misused his post in order to cause financial losses to the trust. On the basis of direction given by ACC, report came to be lodged wherein there are specific allegations made about donating the property of the trust to others by accepting money transfer to the sell of the properties without complying with the rules, purchase of articles without accounting the same etc. On the basis of this complaint, present Applicant apprehends arrest.

3. Learned Counsel for the Applicant states that learned ACC has failed to take into consideration relevant provisions of Maharashtra Public Trusts Act and directions are issued and hence, FIR lodged on the basis of the same cannot sustain. It is submitted that the Applicant is one of the trustee, who was appointed by the order of the High Court and hence, acts done by him are in discharge of duties as trustee. It is alleged that the Applicant is being targeted which can be seen from the fact that the informant herein has

certified other trustees to be innocent and he is being made scapegoat.

4. Learned APP opposed the application by contending that Ad-hoc committee was appointed by High Court and though Applicant was not appointed as Chairman, he posed himself to be so and misled the public at large. By referring to the investigation papers, it is submitted that by this time investigation agency could collect sufficient material to show that the Applicant has misappropriated the amounts as well as has caused losses to the trust. Thus, according to learned APP, this is a fit case wherein custodial interrogation of the Applicant is necessary in order to ascertain the manner in which the bogus resolutions were made, properties are disposed of and amounts entitled by the trust are siphoned and to find out money trail.

5. This Court need not go into the submissions made by learned Counsel for the Applicant with regard to the order passed by learned ACC. The validity of the said order cannot become subject matter of this proceeding. Suffice it to say that at the instance of

Administrative Trustee the criminal law is set into motion. At this stage, what is relevant consideration for decision of present Application is as to whether there is any *prima facie* evidence collected by the investigating agency which will indicate the complicity of the Applicant in this crime.

6. Perusal of the investigation papers shows that Applicant and two other trustees had allowed use of the property of the trust to third party without passing any resolution. An agreement which finds part of investigation papers indicates that the Applicant has donated another property of the trust without any permission from Charity Commissioner or even without any resolution to that effect. The bank statements filed on record also indicate that there are withdrawals made by the present Applicant in his own name from the said account. The statements of co-trustees also shows that it was the present Applicant, who was dealing with the entire affairs of the trust independently without consultation with other trustees. Thus, there is *prima facie* material to show involvement of the Applicant in this crime which involves the

misappropriation of funds of a public trust. Investigation is in progress. There is substance in the contention of learned APP that for effective investigation including ascertaining money trail, custodial interrogation of Applicant is necessary.

7. The investigating agency seems to have concentrated its investigation against present Applicant relying upon certificate given by the first information to other trustees. The record indicates that other trustees also have executed certain documents. Hence, it may not be in the interest of proper investigation that it is conducted only against present applicant. The investigating agency, therefore, is expected to investigate this crime by keeping in mind the possibility of involvement of other trustees/other persons therein.

8. In view of above, it is not fit case for grant of anticipatory bail. Hence, application stands dismissed.

LATER ON:

1. After pronouncement of the order, learned

Counsel for the Applicant seeks continuation of interim relief.

2. Learned APP opposed the said request.

3. Since there is interim relief in favour of the Applicants, the same is continued for a period of four weeks.

(R.M. JOSHI, J.)

Malani