

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 703 OF 2023

**JYOTI MACCHINDRA DOKE
VERSUS
THE SUPERINTENDENT OF POLICE
AND ANOTHER.**

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Mr. Rahul R. Karpe, Advocate for applicant.
Mrs. G.L. Deshpande, APP for respondent.

**CORAM : S.G. CHAPALGAONKAR, J.
VACATION COURT.**

DATE : 17th May, 2023

P.C.:-

The applicant has approached this Court under Section 438 of the Cr.P.C. seeking grant of pre-arrest bail in connection with Crime No. 325 of 2023 registered with MIDC Police Station, Dist. Ahmednagar for the offence punishable under Section 7 of the Prevention of Corruption Act. A similar prayer made by the applicant before Additional Sessions Judge, Ahmednagar vide Criminal (Bail) M.A.No. 569 of 2023 came to be rejected vide order dated 27.4.2023.

2. The applicant is an accused in crime No. 325 of 2023 registered on the basis of complaint dated 14th April, 2023, given by one Vijay Ramchandra Nikam with MIDC Police Station, Dist. Ahmednagar. The complainant alleges that the applicant alongwith co-accused had made a demand of Rs. 15,000/- for extending favor in securing bail of his son, who was arrested in pursuance to Crime No. 296 of 2023 registered

with MIDC Police Station, Ahmednagar for the offences punishable under Prevention of Children from Sexual Offences (POCSO) Act. It is alleged that on 13.4.2023, a trap was laid wherein, the accused No.2 had been apprehended red-handed while accepting an amount of Rs. 8,000/- for himself and on behalf of the applicant. Accordingly, the FIR has been lodged against applicant and another for the offence punishable under Section 7 of the Prevention of Corruption Act.

3. Mr. Rahul Karpe, learned advocate for the applicant would submit that the applicant is a young probationary officer and she is discharging her duties as a Police Sub-Inspector at MIDC police station, Ahmednagar. He would submit that the allegations in the FIR revolves around the accused No.2, who was caught red-handed during the trap. He is already released on bail. He would further submit that there is nothing to indicate that applicant had ever demanded amount from the complainant for helping him in release of his son on bail. He would therefore submit that the applicant has been falsely implicated in the alleged crime.

4. Mr. Rahul Karpe would further submit that demand and acceptance of the bribe is **sine qua non** for making out an offence under Section 7 of the Prevention of Corruption Act. He would submit that, even if entire material on record is taken as it is, no offence can be made out against the applicant in absence of evidence regarding demand. He would urge that, custodial interrogation of the applicant is not required since the investigating machinery is already in possession of the material evidence and record. He would further urge that the alleged recording of conversation between the accused and Mr. Yogesh Nikam (middle-man)

nowhere depicts involvement of the applicant, particularly, in relation to the demand of the bribe.

5. Mrs. Deshpande, learned APP would submit that the applicant was the investigating officer in Crime No. 296 of 2023 registered against the son of the informant. The co-accused had demanded bribe of Rs. 15,000/- so as to help informant in securing early bail of his son. On negotiations, Rs. 8,000/- was fixed as bribe amount. The accused No.2 had accepted the said amount on behalf of the applicant. Since accused No.2 was the Driver, he could not have favoured the informant in any manner. The applicant/I.O. was in-charge of the investigation in Crime No. 263 of 2023. Certainly, the bribe amount must have been accepted by co-accused in connivance with the applicant. Mrs. Deshpande would also invite attention of this Court to the script of recorded conversation between the Middleman Yogesh Nikam, accused No.2 Mr. Khengat and the applicant. She would pin point that during said conversation, the demand of bribe has been made by accused No.2 in presence of the applicant. According to her, such demand will have to be treated on behalf of the applicant. At this stage, the applicant cannot disown her involvement in demand of the bribe amount and its acceptance. As such, prima facie, there is sufficient material to indicate the involvement of the applicant.

6. Having heard the submissions advanced by the learned counsel appearing for the respective parties and after going through the police papers, it appears that son of the complainant, namely, Rohit Vijay Nikam, was an accused in Crime No. 296 of 2023 registered with MIDC police station for an offence under the POCSO Act. Admittedly, the

applicant herein was the investigating officer. Initially, Rohit was remanded to police custody and thereafter he was sent to Magisterial custody. His bail application was pending for consideration before the Special Court. At this stage, the informant had approached the applicant and accused No.2 Mr. Sandip Khengat, who is working as a Driver with police department. Apparently, if the applicant was in charge of the investigation in Crime No. 296 of 2023, only she could have favored the informant in securing bail for his son Rohit. The transcription of the conversation between the applicant, co accused - Sandip Khangat and the middleman would show that the applicant was actively present and participated in the conversation. The negotiations regarding nature of favour that can be made for early release of the accused Rohit and the amount that is to be offered to the applicant, has been discussed during the said meeting.

7. Prima facie, there is sufficient material to indicate that the applicant is a party to the said negotiations. Therefore, at this stage, it would be difficult to accept the contention of the applicant, that no material regarding demand of bribe is available against her. The careful reading of conversation shows that the middleman had agreed to part with an amount of Rs. 8,000/- and accused No.2 is apprehended red handed with the bribe amount. In that view of the matter, the applicant has failed to demonstrate her innocence.

8. It is trite that the Court is not expected to delve into the evidence in great details while considering an application under Section 438 of the Cr.P.C. It is for the applicant/accused to prima-facie demonstrate that she is innocent and has been falsely implicated.

9. The aforesaid discussion takes this court to conclude that no case for grant of pre-arrest bail is made out. There is no merit in the application. Hence, the same stands rejected.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-