

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1452 OF 2023

BHAUSAHEB KERBA KASHID
VERSUS
THE STATE OF MAHARASHTRA

WITH
ANTICIPATORY BAIL APPLICATION NO. 1492 OF 2023

SUCHETA ATMARAM GUNJAL
VERSUS
THE STATE OF MAHARASHTRA

WITH
ANTICIPATORY BAIL APPLICATION NO. 1813 OF 2023

ANKUSH MOTIRAM GITE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. V. B. Jagtap in
ABA/1452/2023, Mr. S. S. Jadhav in ABA/1492/2023, Mr.
G. R. Syed in ABA/1813/2023

APP for Respondents: Mr. S. W. Munde
Advocate for informant: Mr. S. S. Thombre

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CORAM : R.M. JOSHI, J
DATE : NOVEMBER 02, 2023

COMMON ORDER :

1. These Applicants are apprehending arrest in connection with Crime No. 391 of 2023 registered with Georai Police Station, Dist. Beed for the offences punishable under Sections 406, 409, 420 and 120-B of Indian Penal Code and Sections 3 and 4 of MPID Act.

2. Mahesh Makal reported to the police that he has acquaintance with Dr. Vasant Dabhade and in April, 2019 he told to the informant that he has acquaintance with Ajit Kale, Chiarmen of Shrimant Yogi Urban Nidhi Ltd, Georai and that he is influential person. It was further told to him that there are vacancies in the Health Department and that he will provide a job for the wife of the informant. For that sake, a sum of Rs. 18 lacs was told to have been given to Ajit Kale. It is further contention of the informant that Dabhade introduced him to Ajit Kale and he also assured the job for the wife of the informant. According to informant, amounts were paid in cash and total sum of Rs. 13 lacs was paid to Dabhade and Kale. In spite of the same, no job was provided and excuses were given citing Covid 19 pandemic. Later on, it was revealed to the informant that he along with others are cheated in the same manner.

3. Learned Counsels for Applicants in ABA/1452/2023 & 1492/2023 submits that the Applicants though are named in the FIR, there are no specific allegations against them that they have assured the job

against payment of money. It is submitted that on the basis of sweeping statement made in the FIR, they apprehend arrest. It is their contention that they are not the Directors of the Company and that they are only shareholders having no right or control over the day to day activities of the company. It is submitted that allegations in respect of receipt of money against assurance providing of job does not get attracted against them. It is also sought to be argued that this is not the case wherein there is any misappropriation of funds as related to the banking transactions of the company. According to them, nothing is to be recovered at their instance and hence, they are entitled for anticipatory bail.

4. Learned Counsel for the Applicant in ABA/1813/2023 submits that though Applicant is named in the FIR, he is not the Director of the company. It is submitted that first informant does not claim that the Applicant had instigated or assured him for making payment of money to Ajit Kale for providing job to his wife. He also, therefore, claims that this is not the case of custodial interrogation.

5. Learned APP and learned Counsel for the informant opposed the applications contending that the arguments of the Applicants in ABA/1452/2023 & 1492/2023 to the effect that that they are not the Directors of the Company is false from the material evidence on record collected during the course of investigation. They drew attention of the Court to the resolutions signed by these persons for authorizing Ajit Kale and others to operate bank account. Similarly, subsequent resolutions are also passed for change of the said authority. They also placed reliance on the statements of witnesses who claims that they made grievance against non providing of job and non return of money in the meeting wherein all the accused persons including these Applicants have assured repayment which indicates their involvement in the crime. On these grounds, it is submitted that the since this is economic offence, this is not a fit case to grant anticipatory bail.

6. In response to the submissions that Applicants being the Directors, document is placed on record that they are the shareholders to the extent of 10% and that they

have no right to participate in the day to day activities and functioning of the Company. Learned APP from the investigation papers was not able to point out anything contrary thereto.

7. First information report clearly shows that the informant was instigated by the co-accused for repayment of huge amount against the assurance of providing Government job to his wife. As far as present Applicants are concerned, there is no allegation against them that they either instigated or contacted the informant in any manner whatsoever for this purpose or there is a statement that any money was paid to them. Though there is substance in the contention of learned APP that except one, other Applicants are Directors of the Company, however, document placed on record by them clearly shows that they had no right of whatsoever nature to participate in the day to day activities of the Company. Thus, in absence of any evidence collected during the course of investigation to indicate that they were participating so, it cannot be held that they are responsible for the alleged acts of the co-accused. Apart from this, there is absolutely

nothing on record to show that they received any benefit from the said crime.

8. As far as Applicant in ABA/1813/2023 is concerned, his involvement in the crime is sought on the basis of statements of two witnesses who claims that he had introduced them to Ajit Kale. The said incident is claimed to have occurred in the year 2020 whereas the statements are recorded for the first time in 2023. In these statements even these witnesses do not claim of any money being paid to this Applicant. Thus, except for these statements, there no material on record to connect this Applicant with the crime in question. In any event, nothing is to be recovered at his instance.

9. Considering the facts and circumstances of the case and having regard to the investigation carried out till date, this Court is of *prima facie* view that there is no material to connect present Applicants with the crime. There is no reason or justification for custodial interrogation. Nothing is to be recorded at their instance. There are not criminal antecedents against them.

10. In view of above, applications are allowed.

Hence, order:

O R D E R

- (i) Anticipatory Bail Application Nos. 1452/2023 is allowed by confirming interim order dated 29th August, 2023.
- (ii) Anticipatory Bail Applications Nos. 1492/2023 & 1813/2023 are allowed.
- (iii) In the event of arrest of the Applicants in ABA/1492/2023 & ABA/1813/2023 in connection with Crime No. 391 of 2023 registered with Georai Police Station, Dist. Beed for the offences punishable under Sections 406, 409, 420 and 120-B of Indian Penal Code and Sections 3 and 4 of MPID Act, they shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) each with one surety in the like amount.
- (iii) They shall attend the concerned police station as and when required.
- (iv) They shall not contact the witnesses directly or indirectly.
- (v) They shall not interfere with the evidence in any manner whatsoever.
- (vi) They are further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI, J.)