

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

ANTICIPATORY BAIL APPLICATION NO. 115 OF 2023

Kisan Maruti Bhosale ..Applicant
VS.
The State of Maharashtra and anr. ..Respondents

Ms. Akanksha Helaskar, for the Applicant.
Mr. S. V. Gavand, APP for the State.
PI-Umakant Mahadik, Vijapur Naka Police Station present.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 18, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP.
- 2.** This is an application for pre-arrest bail. The applicant is apprehending arrest in connection with C.R.No. 637 of 2022 dated 26/12/2022 registered with Vijapur Naka Police Station, District-Solapur for the offence punishable under sections 7 and 12 of the Prevention of Corruption Act, 1988.
- 3.** The allegation is that the applicant along with co-accused-Ashok Jadhav are serving as peons in primary residential school at Tembhurni, Solapur. The complainant's

wife is serving as a teacher in a school at Vijapur Road at Solapur. The applicant was working under the control of Social Welfare Department. The applicant demanded bribe of Rs. 5 lakhs for releasing payment of complainant's wife from February 2014 to June 2021 on behalf of Kailash Adhe-Assistant Welfare Commissioner and asked to pay the amount to co-accused- Ashok. On 01/09/2022 ACP officers verified the demand of the applicant that he demanded Rs. 5 lakhs to the complainant and co-accused-Ashok consented for the same. Learned APP submitted that the offence is very serious and custodial interrogation of the applicant is necessary. It is submitted that the applicant is not traceable since the registration of the FIR.

4. The co-accused-Ashok was arrested and he has been released on bail by the Special Judge, Solapur. The Sessions Court while granting bail to the co-accused Ashok has observed thus :

" 7. Considered respective submissions. At the outset it is pertinent to mention here that, admittedly case is of only demand of bribe. Applicant is serving as peon in the school and he is under control of Social Welfare Department. Co-accused Kisan Bhosale demanded bribe of Rs.

5,00,000/- for releasing payment of complainants wife. Said demand was verified by ACB.

8. Here it is necessary to make a mention that, this is only case of demand. The applicant is in service and he is resident of Tahsil South Solapur. He could well available for interrogation whenever police require. However there is no need to keep him behind bars. Regarding fear of APP that, applicant may pressurize witnesses etc. certain directions can be given to the applicant. Moreover 'bail is rule and jail is an exception' is rule of law. Certainly when there is no reason to keep a person behind bars, he must be enlarged on bail. So this is a fit case to release applicant on bail. No purpose will be served by keeping him behind bars."

5. The applicant was working as a peon. It is alleged that he demanded bribe on behalf of the Assistant Commissioner, Social Welfare Department. The applicant is not the sanctioning authority or disbursing authority. Present is a case of demand of bribe. No doubt, there are voice conversations on record implicating the applicant. As co-accused Ashok was arrested and since has been released on bail, the custodial interrogation of the applicant is not necessary. Learned APP submitted that the applicant's mobile phone is to be seized. Learned counsel for the applicant submitted that the applicant is willing to hand

over his mobile phone for investigation and co-operate with the investigation. There are no criminal antecedents reported against the applicant. Hence, the following order.

ORDER

(a) In the event of arrest of the applicant in connection with C.R. No. 637 of 2022 dated 26/12/2022 registered with Vijapur Naka Police Station, District-Solapur, the applicant- Kisan Maruti Bhosale be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence;

(c) The applicant shall report to the investigating officer on 21st and 22nd January 2023 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called by the investigating officer and co-operate with the investigation.

(d) The applicant to hand over his mobile phone to the investigating officer.

6. The anticipatory bail application is disposed of.

(M. S. KARNIK, J.)