

Ghuge

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

WRIT PETITION NO.1327 OF 2021

Azaz Arif Shaikh	... Petitioner
V/s.	
State of Maharashtra and Anr	... Respondents

Mr. Uday P. Warunjikar for the petitioner.

Mr. Arfan Sait, APP for the State.

Ms. Gayatri Gokhale with Adv. Zainba Abdi for
respondent No.2.

PSI. Priyanka Sadlkar, Vitthalwadi Police Station.

CORAM : AMIT BORKAR, J.

DATED : APRIL 26, 2023

P.C.:

1. Challenge in this petition is to the order clause 2(i) of order dated 11th December, 2020 passed by Additional Sessions Judge, Kalyan in Criminal Bail Application No.1313 of 2020 below Exhibit-1. According to the petitioner, the statement made on behalf of the applicant volunteering to deposit the amount was two fold (i) to deposit the amount of Rs.6,32,000/- in the account of informant in the Court; (ii) or in the said crime as directed by the Court.

2. It is submitted that the learned Additional Sessions Judge has exercised discretion in contrary to the well settled principles of law by directing the petitioner to deposit the amount in the account of informant.

3. The case of the prosecution is that the informant was in search of job and came in contact with applicant and co-accused. They promised employment to the informant on condition of payment of Rs.13,56,040/-. According to prosecution, said amount was paid to the applicant and co-accused. Since the applicant and co-accused failed to provide the job, the informant filed a complaint with Vitthalwadi Police Station for offence punishable under Sections 420, 465, 468, 471 read with 34 of the Indian Penal Code, 1860 and Section 66(g) of the Information Technology Act, 2005.

4. In the background of the aforesaid facts, the Additional Sessions Judge, Kalyan directed the petitioner to comply with first part of voluntary statement made by the advocate for the applicant. It is well settled that while releasing the accused on bail, the Court shall not impose condition of payment of unreasonable amount to be paid to the informant. However, in the facts of the case reflected from paragraph 7 and considering the nature of allegations against the applicant that he along with co-accused accepted an amount of Rs.13,56,040/- for providing employment in my opinion, exercise of discretion by the Additional Sessions Judge, Kalyan based on concession of fact by the applicant cannot be termed as perverse. Hence, there is no merit in the writ petition. The Writ Petition stands dismissed. No costs.

5. However, informant shall file within 4 weeks from today an undertaking before the Additional Sessions Judge, Kalyan stating that in case subsequently it is found that she was not entitled to claim the amount of Rs.6,32,000/-, she will refund the amount

received by her within a period of 4 weeks from the date of order passed by the competent Court.

6. The amount as directed by the Sessions Court, Kalyan shall be paid within 8 weeks from today.

(AMIT BORKAR, J.)