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

ANTICIPATORY BAIL APPLICATION NO.918 OF 2023

Tukaram Dhavalu Dambali

...Applicant

vs.

State of Maharashtra

...Respondent

Ms. Vrushali Maindad with Ms. Shaheen Kapadia, for the Applicant.

Mr. Y. Y. Dabke, APP for the Respondent-State.

Mr. D. G. Bhoje, PC No.714, Jawhar police station, Thane present.

CORAM : S. M. MODAK, J.

DATED : 24TH APRIL 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP for the Respondent-State.
2. This Court fails to understand that inspite of the observations made by this Court and more specifically in para 8 of the order 10th April 2023, today, the officer is not present but it is told that Mr.D.G. Bhoje, police constable (Writer) is present.

3. On 10th April 2023, after hearing both sides this Court was pleased to grant interim protection for the reasons stated therein. Certain general observations were made about the case. On that date, learned APP for want of assistance or for any reason, he was not in a position to point out supporting materials.

4. Today, also when I heard learned APP, except pointing out that the statement of three arrested accused, whose names are Ketan Patil, Shrinath Bhoje and Manik Batra, no other new material is pointed out either in support of the allegations in the FIR or to justify the case for custodial interrogation of this Applicant. Those three accused persons in nutshell have stated that it is present applicant who only knows from where colour print-outs of the currency notes of different denomination in all amounting to Rs.2,20,000/- was brought.

5. Learned APP submitted that in fact, this colour print-outs are not print-outs of genuine currency notes but they are print-outs of fake currency notes. This was disclosed when correspondence is made with the State of Bank and they have replied accordingly. But, unfortunately, the police have not added all relevant sections of IPC pertaining to fake currency notes. This fact is confirmed by learned

APP again by taking instructions from the police constable present.I

do not find any reason is forth coming for not doing that.

6. When police are aware that these are colour print-outs of fake currency notes on one hand they are not applying relevant sections of IPC, on the other hand they are insisting for custodial interrogation. It cannot be warranted.

7. The second ground agitated for justifying custodial interrogation is that the first informant has assured to pay Rs.1,50,000/- to present Applicant and the Applicant has assured that with help of some divine power, he will make it Rs.5,00,000/- But either from the FIR or supporting materials, it is not pointed out that really that amount of Rs.1,50,000/- is paid to the Applicant.

8. Furthermore, even though the provisions of the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013 are invoked, neither in the FIR nor during investigation, it is disclosed that except assurance, how there are other factual aspects as to invoke the provisions of said Act. Even though at the most, it may be under section 3 of the said Act. I do not think that the case for custodial interrogation is made out.

9. Though learned APP tried to convince the court for the case of custodial interrogation, he could not fortify his submission on the basis of the materials collected during investigation.

10. Learned Advocate for the Applicant submitted that as per her instructions, the charge-sheet is filed against the Applicant. Learned APP, on instructions, submitted that it is not filed against the present Applicant but against arrested accused.

11. Even though it may be true that earlier in the year 2015, this Applicant was also prosecuted for contravening the provisions of 2013 Act, but the present application has to be decided on the basis of material put forth. So case for confirmation of interim protection is made out. Hence, the following order is passed :

ORDER

- (a) Interim protection granted on 10th April 2023, is confirmed.
- (b) The Applicant shall not threaten the prosecution witnesses or allure them in any manner.
- (c) The Applicant shall give attendance to the Jawhar police station, Palghar on every first and third Friday from 10 am to 12 noon until filing of the charge-sheet.

(d) Needless to say, violating of the condition above will make the Applicant liable for cancellation of anticipatory bail, after notice to the Applicant.

12. Application is disposed of accordingly.

13. These are my prima facie observations and the trial Court may not be influenced by that.

14. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]