

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO. 1685 OF 2023

Vijaykumar Vasant Mundaware ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr. Aniket V. Nikam i/by Mr. Amit Icham, for Applicant.

Mrs. Veera Shinde, APP for the State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : JUNE 16, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.I-121/2023 registered with Indiranagar police station District Nashik for offence punishable under Sections 420, 504, 506 of the Indian Penal Code, (for short "IPC"), the applicant is seeking relief under Section 438 of the Code of Criminal Procedure (for short "Cr.P.C").
2. According to the prosecution, the applicant assured that he will provide employment for informant's daughter in India Security Press, India, Nashik, in furtherance advertisement No.3 of 2020. Accordingly, she applied on 2 December 2020. According to the prosecution on 17 January 2021, the informant came in contact with the applicant. The applicant promised that he will get job for informant's daughter in India Security Press, India, Nashik subject to payment of Rs.12 lakhs. Accordingly, the informant paid amount of Rs.7 lakhs in cash. Despite such payment, informant's daughter could not get appointment on repeated request. The

informant demanded to return the amount. On 12 September, 2021, the applicant returned Rs.1 lakh. Due to non-payment of remaining amount the applicant lodged report with respondent police station.

3. The applicant, therefore, filed application under Section 438 of Cr.P.C., which came to be rejected by order dated 6 June 2023.

4. Learned Counsel for the applicant submitted that there is delay of two years, the amount is allegedly paid in cash. The informant was in need of money and therefore, he was requesting the applicant to pay the amount. Accordingly, the applicant had given Rs.1 lakh hand loan to the informant. The informant was demanding further amount of Rs. 2 to 2.5 lakh towards loan on refusal by the applicant. According to the applicant he has been falsely implicated.

5. Learned APP invited my attention to the transcript of whatsapp chat for the relevant period. She submitted that the transcript of whatsapp chat from the month of March 2021 till 5 April 2021 indicates that there is continuous request by the informant to the applicant requesting money back which prima facie supports the allegations in the F.I.R. Therefore, this is not a case of false implication, the applicant's custodial interrogation is necessary to recover the said amount.

6. On perusal of the case diary and the transcript of whatsapp chat, prima facie indicate that amount of Rs.7 lakhs was paid to the applicant by informant. The promise to get employment is not fulfilled by the applicant. The informant requesting the applicant

to return the amount from 5 August 2021. The whatsapp chat prima facie states under (i) “it has been one year my daughter is not getting job”, (ii) “please refund me my money Rs.7 lakhs as soon as possible on top priority basis”. This transcript prima facie supports case of the informant. Therefore, prima facie case is made out against the applicant. Therefore, custodial interrogation of the applicant is necessary to recover the cell-phone, the amount paid and there is every possibility that the applicant having committed similar acts with other persons. There is no merit, the application is, therefore, rejected.

7. It is made clear that the observations made in the present order are for the purpose of adjudication of present anticipatory bail application and shall not influence the trial Court while considering in further application on behalf of applicant during the trial.

(AMIT BORKAR, J.)