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

ANTICIPATORY BAIL APPLICATION NO. 1858 OF 2023

Jyoti Ajinath Kharat

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr.B.A.Lavate – Advocate for Applicant.

Mr.S.R.Agarkar – APP for Respondent-State.

Mr.Vaibhav Chumble – API – Tilaknagar Police Station – Thane City.

CORAM : S. M. MODAK, J.

DATED : 31ST JULY 2023

P.C. :

1. Heard learned Advocate for the Applicant and learned APP. The Investigating Officer is also present.

2. Read the order dated 10th July, 2023. An FIR is filed against in all 5 persons. Out of them, Accused No.1 – Ajinath is the husband of present Applicant. He is granted regular bail by the trial Court. Whereas, Accused No.2 – Jyoti is the present Applicant.

3. Sum and substance of the allegation in the FIR is that on the pretext of offering a job in CIDCO, in postal department, the Accused Ajinath and present Applicant induced the First-Informant Akshay

Satish Sangar

Agawane to part away money. The money is paid to the Applicant Jyoti separately and to Ajinath also. Total amount paid by the First-Informant comes to Rs.7,16,350/-. At the time of lodging the FIR, he was already returned an amount of Rs.4,66,350/-.

4. The Prosecution does not claim that this Applicant has played any part in preparation of forged documents. So, only allegation is making representation and accepting the amount. The total amount paid individually to this Applicant comes to Rs.1,50,000/-.

5. Today, compilation of documents is filed. On Page No.19, there are payment receipts made to the First-Informant Akshay Agawane and to his family members. The details are as follows :-

- (a) Rs.50,000/- to Popat Agawane on 25th February, 2023.
- (b) Rs.1000/- to Akshay Agawane on 21st November, 2022.
- (c) Rs.10,000/- to Pooja Bobade on 2nd November, 2022.

The contention is in that manner, Rs.61,000/- is already refunded and the amount remained to be refunded is Rs.99,000/- and without prejudice, the Applicant has received instructions to deposit the amount in the Police Station. Learned APP pointed out that these amounts were refunded prior to lodging of FIR and these amounts

are already included in the amount already refunded. It comes to Rs.4,66,350/-.

6. It is very well true that the lodging of FIR is not for the purpose of recovering an amount. If the Applicant is ready to deposit the amount, she can be directed to deposit it. But, the Court cannot be a mode to recover the amount.

7. Considering the above, I do not think that her custodial interrogation is required. Hence, order :-

ORDER

- (i) Application is allowed.
 - (ii) In case of an arrest in connection with C.R. No. 97 of 2023 registered with Tilak Nagar Police Station for the offences punishable under Sections 465, 468, 406, 420 read with 34 of IPC, the Applicant - Jyoti Ajinath Kharat be released on furnishing personal bond and surety bond of Rs.25,000/-.
 - (ii) Applicant is directed to give attendance to Tilak Nagar Police Station on 5th August and 12th August, 2023 from 10.00 to 12.00 noon.
8. The assurance given to deposit the amount of Rs.99,000/- in the Police Station by way of demand draft is accepted. Let it be done within two weeks from today.
9. The Police are at liberty to attach it in that crime.

10. Let the concerned Court of JMFC to take an appropriate decision about this amount after hearing both the sides.
11. If the amount is not deposited within two weeks, the order will stand vacated.
12. These are my *prima facie* observations.
13. Application is disposed of in the aforesaid terms.
14. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]