

Chandrakant Narayan Babar and Another ...Applicants
vs.
The State of Maharashtra ...Respondent

CORAM: N. J. JAMADAR, J.
DATE: SEPTEMBER 11, 2023

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 35 of 2023 registered at Karjat police station for the offences punishable under sections 406, 417, 420 read with 34 of Indian penal Code, 1860.
3. The first informant lodged a report with the allegations that the applicants and their associates were introduced to the first informant by his maternal cousin Shivaji Zade. Applicant No. 1 allegedly represented that he had a trick to triple the money. The applicants and their associates initially gave small amounts of money to the first informant to gain his confidence. Later on the first informant was made to part with a sum of Rs. 25,000/-. The

first informant was, however, told that substantial amount was required. On 26th December, 2022, the first informant and his maternal cousin Shivaji Zade reached the place designated by the applicants. First informant carried a bag containing cash amount of Rs. 4,50,000/-. Under the pretext of exchanging the bags, the applicants and their associates sped away in different vehicles, leaving the first informant and Shivaji Zade stranded. The first informant made efforts to trace Sajjan Maharaj, the applicant No. 1, at various places but could not find him. The first informant realized that he was deceived. Hence, the report.

4. Mr. Shahed Ansari, learned counsel submitted that there is no material to connect the applicants with the offence. They have been roped in on the basis of the statements of the co-accused, who were arrested. Even the identity of the applicants as the persons who made the false representation and induced the first informant to part with the money is shrouded in mistry. Thus, the applicants deserve to be released on bail in the event of their arrest.

5. Learned APP, on the other hand, submitted that the co-accused have specifically named the applicants as privy to the crime. Four offences have been registered against the applicant No. 1. In two of the crimes, allegations of the present nature have been made. The custodial interrogation of the applicants is, therefore,

warranted.

6. In a case of this nature, it is rather difficult to find direct evidence of payment. It is the tenor of the accusation which deserves to be taken into account. The statement of the co-accused who have named the applicants especially the applicant No. 1 as the very Sajjan Maharaj, at this stage of the investigation, cannot be thrown over board. The investigating officer is within his rights in proceeding against the applicants on the basis of the said statements. The fact that the antecedents of applicant No. 1 show involvement in the alleged offences of cheating in somewhat similar fashion deserves to be taken into account.

7. The allegations are such that only custodial interrogation of the accused can shade light on the circumstances in which the alleged offences were committed and the persons privy thereto. I thus find it difficult to accede to the submissions of Mr. Ansari, learned counsel for the applicants, that there is prima facie no nexus between the applicants and the alleged offences.

8. In the backdrop of the nature of the accusations, at this juncture, the statements of the co-accused appear to have incriminating tendency qua the applicants. Resultantly, the applicants do not deserve pre-arrest bail.

Hence, the following order.

ORDER

- 1] The application stands rejected.
- 2] It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

(N. J. JAMADAR, J.)