

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

ANTICIPATORY BAIL APPLICATION NO. 2581 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Arjun Vishnu Khade

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Sanjeev Kadam, i/b Pratik Rahade, for the Applicant.

Mr. R. M. Pethe, APP for the State/Respondent.

API C. C. Thorbole, Hadapsar Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED: 12th SEPTEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This is an application for pre-arrest bail in connection with CR No.334 of 2023, registered with Hadapsar Police Station, Pune, for the offences punishable under Sections 406 and 420 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3. Co-accused Shailaja Darade is a public servant. She was working as an administrative officer at Pune. Co-accused Dadasaheb Darade, the brother of Shailaja, allegedly made a representation to the first informant and others that her sister would secure employment to the candidates, who were

having D.Ed. and B.Ed., as Teachers, and Talathi. Meetings were held in which co-accused Shailaja herself made the representation and induced the first informant and others to part with huge amounts. The first informant gave a sum of Rs.27,00,000/- to secure employment for his relatives, namely Smt. Pooja Yadav and Smt. Nita Randive, who were having the requisite qualification. As the employment could not be secured the first informant repetitively pursued the matter with co-accused Shailaja and Dadasaheb. Eventually, Dadasaheb executed a document promising to return the said amount. Even a cheque drawn by Dadasaheb was dishonoured on presentation. Thus, the first informant lodged report adverting to the facts that the accused had deceived him and a number of persons.

4. It transpired that the applicant was an associate of Shailaja and privy to the crime. He had accepted a sum of Rs.2,00,000/- from a person for securing the employment, on behalf of Shailaja. The applicant had participated in a number of meetings where the inducements were made and amounts were accepted.

5. Apprehending arrest, the applicant approached this Court as the learned Additional Sessions Judge declined to exercise the discretion in favour of the applicant.

6. Mr. Kadam, the learned Counsel for the applicant, submitted that the only incriminating material against the applicant is of having accepted a sum of Rs.2,00,000/- from a shopkeeper, which the co-accused had asked him to collect. In fact, the said amount represented the amount which the applicant had paid to the co-accused to secure employment for his brother and in respect of which the complaint was lodged against the first informant and co-accused Dadasaheb Darade. Mr. Kadam would thus urge that the applicant is a victim and has been wrongly roped in.

7. The learned APP, on the other hand, submitted that the material on record makes out a strong *prima facie* case against the applicant. Inviting the attention of the Court to the statement of Shashikant Chavan from whom the applicant had accepted said amount it was submitted that the fact that the applicant was also a part of the racket is firmly made out. Numerous persons have been duped. Investigation is warranted to unearth the fraud and the role

of the applicant therein. Custodial interrogation is, therefore, indispensable.

8. *Prima facie*, there is material to show that the co-accused had duped a number of persons by inducing them to part with money by making a false representation of securing employment. The prosecution alleges that the accused have defrauded the victims of a sum of Rs.5,28,00,000/-. There is material to show that the applicant had accepted a sum of Rs.2,00,000/- from one Shashikant Chavan. Allegedly, the said act is captured by a CCTV.

9. At this juncture, the statement of Shashikant Chavan belies the claim of the applicant that the said amount represented the money which was to be repaid by the co-accused. Shashikant Chavan states that his brother Shankar had paid Rs.10,00,000/- to co-accused Dadasaheb at his residence at Atpadi and balance amount of Rs.2,00,000/- was directed to be paid to the applicant, who was the close associate of co-accused Shailaja. There are statements of witnesses to show that the applicant was close associate of co-accused Shailaja and acted as her Personal Assistant, received the calls on behalf of the co-accused

Shailaja and communicated with the persons, who were allegedly duped.

10. The nature of the fraud, the number of unsuspecting persons who were induced to part with amounts on the pretext of securing employment and the huge amount of which those persons have been defrauded, render the prosecution version that the applicant was an equal privy to the crime worthy of investigation.

11. In the face of such *prima facie* material, custodial interrogation of the applicant is warranted to have a complete and effectual investigation. It is not a case where the discretion to release on pre-arrest bail can be exercised without jeopardising investigation and the interest of victims.

12. Resultantly, application deserves to be rejected.

13. Hence, the following order:

: O R D E R :

(i) Application stands rejected.

(ii) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

[N. J. JAMADAR, J.]