

Amar Kachru Bagul and Others ...Applicants
vs.
The State of Maharashtra ...Respondent

CORAM: N. J. JAMADAR, J.
DATE: SEPTEMBER 21, 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. 134 of 2023 registered at Marine Drive police station for the offences punishable under sections 170, 419, 420, 465, 468, 471 read with 34 of Indian penal Code, 1860.

3. The applicant No. 2 Avinash Bagul is the son of applicant No. 3 Vikram Bagul. Applicant No. 1 Amar is the brother of applicant No. 3 Vikram, who was residing with his family at the Government Hostel, C Road, Churchgate. The first informant also resides at the

said Hostel and had known the applicants and their family members.

4. In the month of June, 2021, the applicant No. 2 Avinash informed the first informant that he had secured employment in the Railways and his uncle Amar applicant No. 1, can secure such employment, if an amount of Rs. 15 lakhs is paid to him. The applicant No. 3 Vikram also made such representation and made the first informant and his family members to have conversation with applicant No. 1 Amar on phone. The applicant No. 1 induced the first informant to initially part with a sum of Rs. 5 lakhs. The first informant claimed to have raised the said amount from his named relatives.

5. Applicant Nos. 1 and 2 allegedly took the first informant to Dr. Babasaheb Ambedkar Railway Hospital, Byculla and made him believe that his medical test was conducted for the said employment. A communication was also sent about the satisfactory medical test. A joining letter was forwarded to the first informant on 13th August, 2021 by applicant No. 2 Avinash. On 17th August, 2021 the first informant and his parents paid a sum of Rs. 8,50,000/- to the applicant No. 1 Amar in the presence of applicant

Nos. 2 and 3. On 15th August, 2021 applicant No. 2 Avinash handed over a purported appointment letter to the first informant . A farce of verification of his original documents was also made. On 11th September, 2021 an email of appointment was sent from email ID noreplypo@bb.railnet.go. The first informant and others were taken to Uttar Pradesh purportedly for the purpose of training. They were made to stay in a hotel at Ayodhya. Despite having stayed thereat for 15 days, no call for training at Kannoj, as represented, was received. Realizing the fraud, the first informant and other candidates who were similarly deceived, returned to Mumbai.

6. When the first informant demanded the refund of the amount, the applicant No. 1 Amar returned a sum of Rs. 2,50,000/- and the applicant No. 3 Vikram issued two cheques, drawn for Rs. 6 lakhs and 5 lakhs and payable on 1st January, 2023. Both the cheques were dishonored on presentment. Hence, the report.

7. I have noted the allegations in the first information report in a little detail as Mr. Siddiqui, learned counsel for the applicant, strenuously submitted that the case as set up by the first informant in the first information report is at a variance with the demand notice issued by the first informant upon the dishonor of the

cheques. In the demand notice, the first informant claimed that he had advanced a friendly loan of Rs. 11 lakhs and in discharge of the said debt, the cheques were drawn. This dismantles the very prosecution case, urged Mr. Siddiqui. Placing reliance on the decision of the Supreme Court in the case **Shri Ram and Others vs. State of Maharashtra**¹ wherein the Supreme Court had ordered the release of the accused on bail where there were two rival versions of one incident, Mr. Siddiqui would urge that the applicants deserve exercise of discretion.

8. The learned Additional Session Judge was of the view that the said stand of the first informant was based on a mistaken legal advise and there was overwhelming material in support of the allegations of cheating and forgery which warranted effective investigation.

9. I find the aforesaid approach of the learned Additional Session Judge justifiable. The allegations in the first information report prima facie indicate that it was not simply a case of inducing an aspiring and unsuspecting jobless youth to part with money by making false promise of securing employment. The applicants not only induced the first informant and his parents to part with money

¹ MANU/SC/1973/2001.

but also allegedly committed forgery of the documents. To gain the first informant's trust the applicants initially forged a joining letter and later on a forged appointment letter was delivered to the first informant. The communication dated 15th September, 2023 by the Central Railway indicates that the appointment letter and certificate for medical examination were both forged. Prima facie, the first informant was made to undergo a farce of medical examination to make the first informant believe the applicants. The first informant and another person who was also allegedly duped, were taken to Uttar Pradesh. The particulars of the reserved tickets indicate that applicant No. 1 had traveled with the first informant and others.

10. The situation which thus obtains is that the applicants allegedly induced the first informant to part with an amount, delivered the appointment letter and fitness certificate purported to be issued by the Railways, which turned out to be forged, and the first informant was also taken to Uttar Pradesh on the pretext of providing training. Moreover, there is material to show that there are other victims who have been deceived in an identical fashion. At this juncture, the Court can not lose sight of the fact that even before issuing the subject cheques towards repayment of the

amount, the offences of cheating and forgery were complete.

11. It is in this context, the learned Additional Session Judge was justified in not giving much importance to the stand of the first informant in the demand notice that he had advanced a friendly loan. Prima facie, the allegations against the applicants, especially in the context of the other victims also having been allegedly duped in a similar fashion, are such that custodial interrogation is indispensable to unearth the fraud in all its facets and to ascertain the authorship of the forged documents and have a complete and effective investigation.

12. I, therefore, find it difficult to accede to the submission of Mr. Siddiqui that the discretion can be exercised in favour of the applicants by directing them to join in the investigation. The applicants have prima facie exploited the hapless situation of a jobless youth. The offences of forgery and cheating are required to be considered through this prism. Thus viewed, the application deserves to be rejected.

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.)