

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3001 OF 2023

Vaibhav Shetye ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. S.G. Korgaonkar a/w. Mr. J.P. Kharge, for the Applicant
Mr. M.G. Patil, APP, for the Respondent/State.
Mr. M.B. Dhumal, PSI, Bhoiwada police station.

CORAM : N. J. JAMADAR, J.
DATE : NOVEMBER 6, 2023

P.C.:

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.284 of 2023 registered at Bhoiwada police station for the offences punishable under sections 420 and 406 read with 34 of Indian penal Code, 1860.
3. The first informant is the manager of the Buddhist society of India. Every year the society publishes Dhammayan calendars. Accused No. 1 Rushikesh Surve had printed the calendars in the year 2022. For the 2023 also, an order was placed with accused No. 1 to print the calendars. The accused No. 1 demanded an advance of Rs. 20 lakhs. The said amount was paid to accused No. 1. However, accused No. 1 had requested the society to issue a cheque payable in

favour of Shree Graphics Printing Company, of which the applicant is the Proprietor. Accused No. 1 failed to deliver the calendars as promised nor the advance of Rs. 20 lakhs was refunded. Hence, the report.

4. The learned counsel for the applicant submitted that the amount credited to the account of the applicant by the society was primarily on the request of the co-accused. The applicant is not beneficiary of the alleged deception practiced by the accused No. 1. Yet, to show his bonafide the applicant is willing to deposit a sum of Rs. 5 lakhs.

5. The learned APP resisted the prayer for pre-arrest bail. It was submitted that the amount of Rs. 20 lakhs was credited to the account of the applicant and, therefore, the applicant is a privy to the offence.

6. Evidently, the allegations in the first information report are that the transaction was between the society and accused No. 1. The contract was awarded to accused No. 1 on the basis of services rendered by the accused No. 1 in the previous year. It is not the case that the applicant had made any inducement. Prima facie, the element of deception coupled with injury seems to be absent qua the applicant. Indeed there is material to show that the amount was credited to the account of the applicant. Simultaneously, there are

entries to show that a part of the amount was in turn credited by the applicant in the account purportedly at the instance of accused No. 1.

7. In the aforesaid view of the matter, I am inclined to exercise the discretion in favour of the applicant.

8. As undertaken, the applicant shall deposit a sum of Rs. 5 lakhs in the Court of learned Metropolitan Magistrate exercising jurisdiction over Bhoiwada police station within a period of one week from today and submit a copy of the receipt to the investigating officer.

9. The amount of Rs. 5 lakhs, if deposited by the applicant, shall be invested in an interest bearing account with the Nationalized Bank and shall abide the final outcome of the proceeding arising out of C.R. No. 284 of 2023.

10. Subject to aforesaid undertaking, in the event of arrest in C.R. No. 284 of 2023 registered with Bhoiwada police station, the applicant be released on bail on furnishing a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

11. The applicant shall cooperate with the investigation and attend Bhoiwada police station, on 9th, 10th, 20th and 21st November, 2023 in between 10 am to 1 pm and, thereafter, as and when directed.

12. The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

13. The applicant shall regularly attend the proceedings before the jurisdictional Court.

14. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

(N. J. JAMADAR, J.)