

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

ANTICIPATORY BAIL APPLICATION NO. 3523 OF 2023

Smt. Manisha Sachin Gaikwad ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Akash Dalvi, a/w Kishor Ajetroa, for the Applicant.
Ms. Anamika Malhotra, APP for the State/Respondent.
API B. R. Zarekar, Chatushringi Police Station, Pune City,
present.

CORAM: N. J. JAMADAR, J.
DATED: 15th DECEMBER, 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.824 of 2023, registered with Chatushringi Police Station, Pune City, for the offences punishable under Sections 420, 465, 467, 468 and 471 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3. The first informant is posted as an Inspector with Pune Mathadi Hamal and Other Manual Workers Board ("the Board"), established under the Maharashtra Mathadi, Hamal and other Manual Workers (Regulation and Employment

Welfare) Act, 1969 ("the Mathadi Act") and the scheme framed thereunder. It was reported to the Board that the applicant, who was running M/s. Viraj Enterprises, alongwith co-accused Anil Gaikwad, had unauthorisedly provided Mathadi Labourers Services to the establishments where mathadi work is available, by forging documents to make the establishments believe that it was the authorized Board. The logo "Mathadi, Hamal and Other Manual Workers" was printed on those bills and receipts so as to give an impression that Viraj Enterprises was the authorised by the Board. Monies were collected from those establishments and the amounts were not credited to the Board.

4. The learned Counsel for the applicant submitted that Viraj Enterprises was registered as an employer under the provisions of the Mathadi Act and the scheme framed thereunder with Pune Mathadi, Hamal and other Manual Workers Board. The applicant's deceased husband Sachin was the Proprietor of the said establishment. The applicant had not indulged in any forgery of the documents. Reliance was sought to be placed on the registration certificate dated 25th January, 2017.

5. I am afraid, the registration certificate does not advance the cause of submission on behalf of the applicant. Under the provisions of the Mathadi Act, the State is empowered to frame a scheme of registration of the employers and unprotected workers in any scheduled employment. The scheme provides for the registration of the employers. Thus, registration of an employer under the scheme does not imply that such registered employer is authorized to discharge the functions of the Board.

6. In the case at hand, there is material to indicate that Viraj Enterprises had issued bills to Wow Momos, KFC and Chemical Shops for providing mathadi workers. Viraj Enterprises has also issued bills to show that it was authorised to provide the services, Bills were issued by providing registration number and logo of Mathadi, Hamal and other Manual Workers to give an impression that it was authorised by the Mathadi Board. The applicant is shown as the Proprietress of Viraj Enterprises on the said Bills. The material on record thus *prima facie* indicates that the applicant had issued false bills claiming to be an authorized Board under the Mathadi Act.

7. Mr. Ajetroa the learned Counsel for the applicant, submitted that the applicant is willing to deposit the amount of three bills. I find it difficult to accede to this submission. The allegation is that the applicant had falsely induced the establishments to avail the mathadi work by falsely claiming that Viraj Enterprises was the authorized Board. Investigation is warranted to unearth the fraud. The submission on behalf of the prosecution that custodial interrogation is warranted to ascertain the magnitude of the fraud and the number of establishments to which the services were thus rendered and the amount collected from them and not credited to the Board, carries substance.

8. For the foregoing reasons, I am not inclined to exercise the discretion in favour of the applicant.

9. Hence the following order:

: O R D E R :

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

[N. J. JAMADAR, J.]