

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3563 OF 2023

Anil Tukaram Gaikwad

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Sanjeev Kadam a/w. Mr. Ganesh Misal, Mr. Sunil Dude, Mr. Rohit Chavan and Mr. Amey Deshpande i/b. Mr. Vishal Kale, for the Applicant.

Smt. Anamika Malhotra, APP, for the Respondent/State.

Mr. S.N. Gurav, Chatushrunji police station, Pune.

CORAM : N. J. JAMADAR, J.

DATE : DECEMBER 21, 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. 824 of 2023 registered at Chatushrunji police station for the offences punishable under sections 420, 465, 467, 468 and 471 read with 34 of Indian penal Code, 1860.

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, along with co-accused Manisha Gaikwad,

Proprietress thereof, 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 authorized by the 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 authorised by the Board. Monies were collected from those establishments and the amounts were not credited to the Board.

4. It would be contextually relevant to note that Smt. Manisha Gaikwad, the Proprietress of M/s. Viraj Enterprises had preferred ABA No. 3523 of 2023. By an order dated 15th December, 2023 this Court was persuaded to reject the application for pre-arrest bail.

5. Mr. Kadam, learned counsel for the applicant, submitted that when the aforesaid application of the co-accused was rejected, certain important aspects were not brought to the notice of the Court. Mr. Kadam laid emphasis on the fact that the Mathadi Act does not cover the establishments, where the applicant had provided the services, and, therefore, there was no question of the applicant depositing the amount collected from those establishments towards wages with the Board. Since Pune Mathadi Hamal and Others Manual Workers Board, Pune Scheme, 1974 did not apply to the “eateries” where the applicant had allegedly

supplied the labourers, the allegations of cheating and forgery are not at all attracted, urged Mr. Kadam.

6. While rejecting ABA No. 3523 of 2023 of Smt. Manisha Gaikwad, this Court had, inter alia, observed as under:-

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. Ajetrao 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.

7. Indisputably, the applicant is also managing the affairs of M/s. Viraj Enterprises. The aforesaid reasons which weighed with this Court in rejecting the application of Manisha Gaikwad apply with equal force to the applicant.

8. The submission on behalf of the applicant that the provisions

of the Mathadi Act, 1969 were not applicable to the establishments in question, though attractive at first blush, does not advance the cause of the applicant to the extent desired. It is pertinent to note that the Bills which M/s. Vijraj Enterprises has issued specifically advert to 'Mathadi work'. Moreover, those Bills were issued as if to show that M/s. Viraj Enterprises was authorized by the Pune Mathadi Hamal and Other Manual Workers Board, Pune. Therefore, I am not inclined to accede to the submissions of Mr. Kadam. Thus, the instant application also 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.)