

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 40/2023

Rameshwar s/o Rustum Karhale .vs. State of Maharashtra, through PSO P.S.
Deulgaonraja and Anti Corruption Unit, Buldhana.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Vishal Bagal Patil, Advocate for applicant.
Mr. S. Haider, A.P.P. for non applicant-State.
Ms M. Sharma, Appointed advocate for non applicant no.2.

CORAM : ANIL L. PANSARE, J.
DATE : JANUARY 25, 2023.

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested on 09.01.2023 in crime No.3/2023 registered with Police Station, Deulgaonraja, Dist. Buldhana, for an offence punishable under Section 7 of the Prevention of Corruption Act.

2. Briefly stated, the case of the prosecution is that the applicant is serving as Clerk in Tahsil office, Deulgaon Raja. Elections of the Gram Panchayats were conducted. The contesting candidates required certificate relating to expenses from Tahsil Office. It is alleged that the applicant made a demand of Rs.5,000/- from 10 candidates for issuing such certificates. He said to have demanded Rs.500/- for each candidate. The trap was laid and applicant was arrested red handed. The decoy amount has been recovered.

3. Learned counsel for the applicant submits that the applicant has two minor children aged 11 years and 5 years old. He is the only bread earner in the family. He has already suffered a lot as he has been suspended from service. His custodial interrogation is not required. There are no criminal antecedents.

4. Learned A.P.P. however submits that the offence involved must be looked into seriously and strong message should be given that such an offender will be dealt with iron hands.

5. The submissions made by the learned A.P.P. are appreciable. However, the same could be relevant once the offence is proved. At this stage, the question that would weigh is whether custodial interrogation of the applicant is necessary. The answer is in the negative. The usual experience is that in the trap cases almost entire evidence is with the investigating agency the moment trap is successfully laid. The decoy amount and the solution applied thereon and other relevant material is collected immediately. The statement of the complainant is recorded prior to laying trap. Thus, no purpose will be served by keeping the applicant behind the bars.

6. Learned counsel for the applicant submits that there are no criminal antecedents against the applicant. He is a government servant. Therefore, the possibility of his abscondance is remote. It will take some time to complete the investigation and thereafter to commence and conclude the trial.

The interest of the prosecution could be protected by putting the applicant to appropriate terms.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Rameshwar s/o Rustam Karhale, be released on bail, in crime No.3/2023 for an offence punishable under Section 7 of the Prevention of Corruption Act, registered with Police Station, Deulgaonraja, Dist. Buldhana, on he furnishing PR. Bond in the sum of Rs.50,000/- with one solvent surety in the like amount.
- (iii) The Applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and the Court concerned and shall not change the residence till the final disposal of the case.
- (iv) The applicant shall attend Police Station Deoulgaon Raja once in a fortnight i.e. on every alternate Saturday between 11.00 a.m. to 01.00 p.m., till filing of the charge-sheet and shall cooperate in the investigation.
- (v) The Applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.
- (vi) The Applicant shall not leave the territory of Buldhana district without prior permission of the Court.
- (vii) The Applicant shall maintain law and order.

(viii) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The application is disposed of in the above terms.

(Anil L. Pansare, J.)

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