

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.331 OF 2023

(Mrs. Gita Bhaskar Shejwal Vs. The State of Maharashtra and ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.V. Sirpurkar, Advocate for the applicant.
Shri A.M. Kadukar, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 07, 2023.

Heard.

2. By this application the applicant is seeking anticipatory bail in the event of her arrest in connection with Crime No.238/2023 registered at police station Ramtek, Nagpur Rural for the offence punishable under Sections 7A and 12 of the Prevention of Corruption Act, 1988.

3. The applicant is apprehending arrest at the hands of the police as crime was registered against her on the basis of report lodged by Vikas Rajendra Kedar on an allegation that the applicant who are serving as a R.T.O. Inspector engaged two private persons for demanding gratification amount on her behalf. On 04/05/2023, he has already made written complaint against the said persons with P.S.I. Shailesh Sapkal. It is further alleged that he is working as a Truck Driver from last one year. He always drives his truck from Shivani (Madhya Pradesh) to Mumbai for carrying the goods. Whenever he proceeds

with his truck, he has to proceed from the Kandri Border Check-Post. He further alleged that on the said Check-Post always applicant and one Atul Bhagwat are usually deputed on duty and they used to demand the amount from them. On 04/05/2023, also they have demanded said amount from him. Accordingly, he made a report against them. The Anti Corruption officials have conducted the raid but the applicant was not found at the said place. On the basis of said report, police have registered the offence against the present applicant.

4. It is contended by the present applicant that she has been implicated in the false case as she made a grievances of sexual harassment against the superior officer and the investigation in that regard is in progress. She has informed higher officials not to allot duty to her under the Road Transport Office, Nagpur City. She also expressed her apprehension that she is likely to be implicated in the false case as her husband was previously implicated. The truck driver of Truck No.CG-07-/CJ-2708 who is the complainant in the complaint filed report against her husband and now he has filed the report against her also. She is implicated in a false case.

5. It is contention of the applicant that already during the raid, the relevant documents are seized by the Investigating Agency and her physical custody is not at all required. Hence, she be released on anticipatory bail in the event of her arrest.

6. Said application is strongly opposed by the Additional Public Prosecutor for the State on the ground that previously also two offences were registered against her under the provisions of Prevention of Corruption Act, 1988. Further objection raised by the State is that her physical custody is required to obtain specimen of handwriting for further investigation. The original receipt book is to be seized from her, and therefore, her physical custody is required.

7. Heard learned Counsel Shri S.V. Sirpurkar for the applicant. He invited my attention towards the copies of various complaints lodged by her alleging the sexual harassment at the hands of her superior. He submitted that as she has filed complaints and made her grievances that she is the victim of sexual harassment at the hands of her superior, she is implicated falsely in the alleged crime. He further submitted that even it is accepted that two crimes are registered against the present applicant previously, then also her physical custody is not required as all relevant documents are already seized by the Investigating Agency.

8. The offences alleged against her are not punishable with imprisonment more than seven years, and therefore, the observation of the Hon'ble Apex Court in ***Satender Kumar Antil Vs. Central Bureau of Investigation, [(2022) 10 SCC 51]*** are applicable in the present case also.

9. He submitted that as physical custody of the present applicant is not required, she be released on anticipatory bail in the event of her arrest.

10. *Per contra*, learned Additional Public Prosecutor submitted that the necessary documents are yet to be seized, her specimen is required for investigation purpose and hence, the application deserves to be rejected.

11. Heard rival submissions of the parties and perused the material on record and the investigation papers. It reveals that the allegation against the present applicant and one Atul Bhagwat are that at the Kandri border Check-Post they have engaged private persons for collecting amount from the drivers of the trucks who passes through the said Check-Post without any reasons. The truck driver who is the informant in the present case has alleged that on 04/05/2023 when he was passing through the Kandri border Check-Post the private persons engaged by the applicant demanded Rs.500/-as a bribe from them. After completing the necessary formalities, it was decided to conduct trap. On 04/05/2023, the applicant was on duty from 2.00 p.m. to 10.00 p.m. and the private persons Mukund Sonkusare and Rajesh Hatkhore was also present. The informant at the time of verification took the truck weighing receipt at the first room of the office at the Check-Post. At that time, said two persons were present and were recovering money from the truck drivers on the count of entry. Thus, *prima facie*,

it appears that Mukund Sonkusare after negotiation demanded Rs.400/- as a gratification for the applicant. The said private persons has some suspicion, and therefore, he asked the informant to immediately take his truck. When the raiding party came to the Check-post, the applicant and these two private persons fled away from the spot. But in the chamber of the applicant, her uniform and other articles were found. It is further apparent that the applicant has already deposited the receipt book along with amount of Rs.28,800/- with the Cashier. The said receipt book is already seized. It further appears from the investigation papers that the vehicle transaction data in respect of truck No.CG-07/CJ-2708, which was alleged to be driven by the informant passed through the Check-post on 04/05/2023 at about 21.24.09 hours. Thus, *prima facie*, it reveals that the truck of the informant passed through the said Check-post, the account was closed by the applicant and deposited the cash of Rs.28,800/- with the Cashier. From the statement of the Cashier, it reveals that the fine receipt book was demanded by the applicant through the Peon and the applicant has collected the fine of Rs.500/- from the truck driver i.e. informant vide receipt No.2108225. The fine is collected after deposit of the receipt book and the amount even after closing of the account. Thus, *prima facie* material is on record to show the involvement of the present applicant in the alleged offence.

12. Now, only question is whether the custodial interrogation of the present applicant is required or not. The objection raised by the State is the routine objection that her specimen is to be obtained and receipt book is to be seized. In fact, the receipt book is already seized and for obtaining specimen signature her custodial interrogation is not required. Admittedly, there are criminal antecedents against the present applicant but only having criminal antecedents is not sufficient to deny the anticipatory bail to the present applicant as her custodial interrogation is not required. The original receipt book of the last entry is required to be seized, for that purpose the applicant can be directed to cooperate with the investigating agency.

13. Having regard to the entire circumstances, as the custodial interrogation of the present applicant is not required and hence application deserves to be allowed by imposing certain conditions. Hence, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Mrs. Gita Bhaskar Shejwal in the event of arrest in Crime No.238/2023 registered at police station Ramtek, Nagpur Rural for the offence punishable under Sections 7A and 12 of the Prevention of Corruption Act, 1988, be released on anticipatory bail on executing P.R. Bond in the sum of 25,000/- (Rs. Twenty five

thousand) with one solvent surety in the like amount.

(iii) The applicant shall attend Police Station, Ramtek, Nagpur Rural, on every Monday between 10.00 a.m. to 1.00 p.m. for investigation purpose and shall cooperate in the investigation, till seizure of the last entry regarding the original receipt book as well as in regard to the specimen signature which is to be obtained for the investigation purpose.

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(URMILA JOSHI-PHALKE, J.)

**Divya*