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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.2077 OF 2023

Kailas Madhav Deshmukh

APPLICANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....
Mr. V. D. Sapkal, Senior Advocate i/b Mr. Sandip R. Sapkal,
Advocate for the applicant

Mr. A. R. Kale, APP for respondents - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 8th FEBRUARY, 2024

ORDER :

1. Applicant apprehends arrest in Crime No.142 of 2016 registered with Belwandi Police Station, District - Ahmednagar for offence punishable under section 304-A, 297, 467, 468, 471, 419, 120-B, 279 of the Indian Penal Code and under section 184, 134-A-B, 177 of the Motor Vehicles Act, wherein charge sheet is filed on 21st August, 2023 against applicant as accused No.5 under section 299 of the Criminal Procedure Code.

2. Laxman Mahadu Wakhare, Kamgar Police Patil, resident of

Hingni Dumale, lodged information with Belwandi Police Station that, on 25th December, 2016 at about 8.30 p.m., while he was at his home, he received a call from his friend, Macchindra More that at about 8.00 p.m., in front of his hotel on Nagar-Pune Highway, one person of unsound mind has died on the spot due to the dash given by unknown vehicle. The body was crushed, as it was run over by many vehicles and, therefore, it was in unidentifiable condition. On the basis of said information Crime No. 142 of 2016 was registered with Belwandi Police Station for offence punishable under sections 304-A and 279 of the Indian Penal Code and under sections 184, 134 (A) (B) and 177 of the Motor Vehicles Act.

3. Applicant, who, at the relevant time, was Police Head Constable at Belwandi Police Station, was entrusted with investigation of the said crime. He went to the spot and prepared spot panchanama, inquest panchanama and took dead body to the civil hospital. Accused No.5 Zumbarbai Raosaheb Waghmode, posing herself as Nandabai Taksale, claimed the dead body to be of her son – Accused No.1 Dinesh Taksale. Applicant handed over the dead body to Accused No.5 – Zumbarbai.

4. Accused No.1 Dinesh Taksale had obtained LIC policy of Rs.2 crore, by giving false information. Said amount was claimed by Accused No. 5 Zumbarbai, contending that Accused No.1 Dinesh Taksale died in the said road accident. On inquiry by the LIC office, Accused No.1 Dinesh Taksale was found to be alive and information submitted by him while obtaining policy was found to be false. So also the documents submitted by Accused No.5 – Zumbarbai while claiming insurance amount, were found to be forged. LIC Officer Omprakash Satyanarayan Shahu has, therefore, lodged FIR, which is registered as Crime No. 92 of 2023 at Shivaji Park Police Station, Dadar for offence punishable under sections, 420, 461, 467, 468, 471, 511, 120B of the Indian Penal Code against Dinesh Taksale (Accused No.1) and Nandabai Taksale (accused No.2). It is contended in the FIR that Accused No.1 – Dinesh Takasale, by submitting false information about him, had purchased LIC policy of Rs.2 crore. Thereafter, though Accused No.1 Dinesh Taksale was alive, it was tried to be shown that he died in the road accident and insurance claim of Rs.2 crore was lodged, through his mother Accused No.2 – Nandabai Taksale and they tried to cheat LIC.

5. After registration of the said Crime at Shivaji Park Police Station, Dadar, investigation of Crime No. 142 of 2016 registered

at Belwandi Police Station was reopened. During the investigation it is transpired that Accused No.2 Anil had contacted applicant and asked him that one dead body is required to claim insurance policy amount of Rs.2 crore. Applicant, in connivance with other accused persons, has prepared a record, showing the unidentified dead body in the accident, is of Accused No.1 Dinesh Taksale. Accused No.5 – Zumbarbai impersonated and posed herself as Nandabai, mother of Accused No.1 – Dinesh Taksale and claimed that the body of unidentified person is of her son Accused No.1 – Dinesh. Investigation papers were fabricated by applicant and he has handed over the dead body of unidentified person of unsound mind to Accused No.2 Anil and Accused No.5 – Zumbarbai. While obtaining LIC policy in the name of Accused No.1 – Dinesh Taksale, Accused No.3 – Vijay Ramdas Malvade had arranged the amount and Accused No.2 Anil Bhimrao Lakde had obtained the LIC policy in the name of Accused No.1 – Dinesh. At the time of obtaining LIC Policy, Accused No.5 – Zumbarbai's photograph was used in place of real mother of Accused No.1, namely Nandabai Taksale and an account was opened in HDFC, Pipeline Branch, Ahmednagar. Signature of Nandabai was forged by Accused No. 2- Anil.

6. Heard learned Senior Advocate for applicant and learned APP for the State. Perused the papers of investigation.

7. Learned Senior Advocate submits that there are two offences registered; one at Crime No.142 of 2016 at Belwandi Police Station, District – Ahmednagar and the other at Crime No. 92 of 2023 at Shivaji Park Police Station, Dadar, Mumbai for offence punishable under section 420, 465, 467, 468, 471, 511, 120B of the Indian Penal Code, against accused Dinesh Taksale and Nandabai Taksale on the basis of FIR lodged by Omprakash Satyanarayan Shahu, an officer of LIC. It is mentioned in the FIR lodged at Shivaji Park Police Station, by LIC Officer that accused persons conspired to obtain insurance amount of Rs.2 crore, by submitting false information about Dinesh Taksale and purchased policy of Rs.2 crore. Thereafter, though Dinesh Taksale is alive, they depicted that he is dead in an accident and lodged insurance claim for getting Rs.2 crore through his mother Nandabai and thereby tried to cheat LIC. It is submitted that there is difference in statements of witnesses recorded in crime registered with Belwandi Police Station and in the crime registered at Shivaji Park Police Station. Applicant has no complicity in the crime as he has done his duty of conducting investigation and on claim being made by accused No.4 –

Zumbarbai posing herself to be real mother of Accused No.1, Nandabai, he had handed over the dead body to her. There is no material against applicant showing his involvement in the crime. Therefore, he, being a public servant, may be protected.

8. Learned APP, on the other hand, submits that since the date of registration of crime at Shivaji Park Police Station, Dadar, the applicant is absconding and he has never co-operated in the investigation. By pointing out statements of some of the witnesses, he submits that it is clear that applicant has connived with other accused persons, so as to enable them to lodge insurance claim with LIC to obtain Rs.2 crore. He submits that custody of applicant is necessary for investigation purposes.

9. Admittedly, applicant was the Investigating Officer in crime No. 142 of 2016 and he has prepared spot panchanama inquest panchanama and has also recorded statements of witnesses. Pancha witnesses, who have allegedly signed the panchanamas prepared by applicant, have stated that they have never appeared as Panchas and never signed any panchanama prepared by applicant. Some of the witnesses, whose statements were allegedly recorded by applicant in the year 2016, have stated that they have never given any statement and their statements, allegedly recorded by applicant are bogus. These

witnesses include relatives of Accused No.1 Dinesh Taksale and Accused No.2 Anil. Thus, it *prima facie* appears that applicant has prepared fabricated record of investigation and has connived with co-accused and handed over dead body of unidentified person to Accused No.5 Zumberbai, without verifying authenticity of her claim that the dead body is of her son – Accused No.1 Dinesh Taksale.

10. For the reasons best known to applicant, he has not kept the piece of sternum bone for DNA profile or photograph of deceased while handing over the dead body to Accused No. 5 – Zumberbai. He has not obtained Aadhar Card and no documents to identify dead body were made part of the investigation papers. Though in the FIR of Crime No.142 of 2016, it is stated that dead body is of a person of unsound mind, however, applicant has failed to conduct investigation in that behalf and instead has conspired with other accused persons to show that the said dead body was of Accused No.1 – Dinesh Taksale, who was alive. Applicant, who was working on the post of Police Head Constable, has indulged in commission of serious offence, and is absconding since long and for effective investigation, his custodial interrogation is necessary. In fact it was the duty of applicant to trace out identity of the dead body and instead of

doing that he has helped co-accused in treating the dead body is that of Accused No.1 – Dinesh Taksale.

11. Considering the gravity of the accusations made against applicant and complicity of applicant, his custody is necessary for effective instigation. Applicant, therefore, does not deserve discretionary relief of anticipatory bail. In the result, application is rejected.

[NITIN B. SURYAWANSHI]
JUDGE