IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2637 OF 2024

Shakil Haji Makbul Sayyad ... Applicant
Versus
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO. 3938 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 2637 OF 2024

Sanjay Bajirao Salunkhe ... Applicant
Versus
The State of Maharashtra ... Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 2608 OF 2024

Vivek Vijay Pandit ... Applicant
Versus
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO. 4333 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 2608 OF 2024

Hemant Balkrishna Salvi ... Applicant
Versus
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO. 3893 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 2608 OF 2024

Sanjay Bajirao Salunkhe ... Applicant
Versus
The State of Maharashtra & Anr. ... Respondents

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Mr. Rupesh A. Zade for the Applicant in ABA/2637/2024.
Mr. Abhinav Chandrachud a/w Yogesh Devnani, Mr. Vachan Bodke, Mr. Vaibhav Gaikwad and Mr. Yash Dalvi i/by V & M Legal for the Applicant in ABA/2608/2024.
Mr. Vishwajeet V. Mohite for the Applicant in IA/4333/2024.
None for the Applicant in IA/3938/2024 and IA/3893/2024.
Mr. Tanveer G. Khan, APP for Respondent-State in ABA/2637/24.
Ms. Megha S. Bajoria, APP for Respondent-State in ABA/2608/24.
Ms. Manisha B. Dubule, S. P., CID, Kolhapur-present.

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CORAM: MANISH PITALE, J.
DATE : 14th NOVEMBER 2024

P.C. :

. Heard learned counsel for the applicant, learned APP for the respondent-State and learned counsel having instructions to appear on behalf of the intervenor.

2. In these applications, on different dates, this Court had granted interim relief, subject to specific conditions.

3. The applications were heard at length, as the learned APPs as well as the learned counsel having instructions to appear on behalf of the first informant, vehemently opposed the applications and it was submitted that the investigation revealed active role of both the applicants, as regards inducement and duping of the informant.

4. In the order dated 26th September 2024 passed in Anticipatory Bail Application No. 2608 of 2024 of applicant-Vivek

Vijay Pandit, in paragraph 6, this Court, for the following reasons, granted interim relief :

> *"6. While time can be granted for producing the investigation papers and for presence of the investigating officer, this Court is inclined to grant interim relief to the applicant for the following reasons:*
>
> *(a) The statement of the informant leading to registration of FIR, prima facie indicates that the act of inducing and alluring the victim was undertaken by the co-accused Hanumant Munde and Shrikant Kolhapure. Reference of the applicant in the said statement is related to a statement given during the course of enquiry by the said co-accused Hanumant Munde on 29.01.2024, stating that part of the amount received from the victim was transferred to the account of the applicant. Prima facie, the act of inducement/allurement on the part of the applicant, is not discernible from the statement of the informant.*
>
> *(b) The allegations pertaining to forgery and corresponding serious offence under Section 467 of the IPC, on the face of it, are not relatable to the applicant.*
>
> *(c) The bank account statement of the applicant is placed on record and it is stated candidly that an amount of ₹ 17 lakhs was indeed received from the co-accused Hanumant Munde. The statement shows that an amount of ₹ 10 lakhs was transferred to one Tulshi Ram, who is not even arrayed as an accused and that an amount of ₹ 2 lakhs was transferred to the co-accused Balu Puri. An amount of ₹ 5 lakhs appears to have been withdrawn in cash by the applicant. The learned counsel for the applicant has made a statement that the applicant is ready to deposit the said amount of ₹ 5 lakhs, if so directed by this Court despite the fact that the applicant claims that the aforesaid cash amount was handed over to the co-accused Hanumant Munde. These factors prima facie inure to the benefit of the*

applicant.

(d) The applicant has undertaken to co-operate with the investigation and hence, interim relief can be granted in favour of the applicant.”

5. On 30th September 2024, this Court granted interim relief in Anticipatory Bail Application No. 2637 of 2024 to applicant-Shakil Haji Makbul Sayyad, for the following reasons :

“5. A perusal of the same shows that this Court granted interim protection to the said co-accused person, despite the fact that an amount of Rs.17 lakhs was transferred by the main accused-Hanumant Munde into the account of the said co-accused person. One of the factors taken into consideration by this Court was that the specific allegation of inducement in the FIR is against the said main accused-Hanumant Munde and one Shrikant Kolhapure.

6. In the present application, it is pointed out even as per the Investigating Authority, the meager amount of Rs.10,000/- was said to have been transferred in favour of the applicant herein. The FIR does not show any specific allegation of inducement on the part of the applicant to the aggrieved persons for issuance of a liquor license (FL-II CL-III). The Sessions Court proceeded to hold against the applicant on the ground that he had sent a copy of a FL-II CL-III wine shop license to one Sanjay Salunkhe, who had initially approached the Police with a grievance against the accused person and a reference is also made to the alleged role of the applicant in showing a wine shop to the other aggrieved person i.e. Hemant Salvi, by name Swastik Shop, assuring that the license of the said shop would be provided to the aforesaid Hemant Salvi.

7. This Court is of the opinion that investigation papers will have to be perused in detail to understand as to how the allegation of inducement applies to the applicant before this Court. Till such time, this Court is of the opinion that transfer of merely an amount of Rs.10,000/- by the main accused to

> *the applicant, prima facie cannot be a ground to show his direct involvement in the instant case."*

6. This Court heard the learned counsel in the backdrop of the documents placed on record, as well as compilation of documents tendered by the learned APP, in order to support the contentions raised against the applicants.

7. A perusal of the statement of the informant, leading to registration of the FIR, would show that the thrust of the allegations, as regards inducement and allurement, is against co-accused Hanumant Munde and Shrikant Kolhapure, although the names of the applicants are also mentioned. It is claimed by the informant that huge amount of Rs.2.5 crores was paid to co-accused Hanumant Munde on promises made by him and co-accused Shrikant Kolhapure that liquor license (FL-II CL-III) would be arranged in the name of the informant. It is claimed that eventually, it came to light that no such license could be procured and this led to registration of the FIR.

8. A perusal of the compilation of documents tendered by the learned APP, shows that initially written complaint in the present case was submitted on 21st June 2022 by one Sanjay Salunkhe, who claims to have taken steps to assist the informant to obtain the aforesaid liquor license (FL-II CL-III). A perusal of the said written complaint also show that thrust of the allegations, as regards inducement and allurement, was against co-accused Hanumant Munde and Shrikant Kolhapure. In one stray sentence,

the name of applicant-Vivek Pandit has been mentioned. In the said written complaint, there is indeed reference to the role of the applicant-Shakil Sayyad as being the person who claimed that he could help the informant in obtaining the liquor license (FL-II CL-III) through co-accused Hanumant Munde and Shrikant Kolhapure.

9. A perusal of documents further shows that on 29th January 2024, an application was filed by co-accused Hanumant Munde before the office of the Economic Offence Wing (EOW), referring to the manner in which the liquor license (FL-II CL-III) was to be obtained through the applicant-Vivek Pandit and that amount of Rs.17 lakhs was transferred to the said applicant. The compilation of document also shows an earlier communication submitted by the said co-accused Hanumant Munde on 10th March 2021 before the Chaturshringi Police Station, Pune, alleging that the applicant-Vivek Pandit has cheated the said co-accused person.

10. This Court has also perused the statements of some of the other witnesses recorded during the course of investigation. Much emphasis was placed on such statements to claim that the applicant-Vivek Pandit appears to have been involved in such fraudulent acts with regard to other liquor licenses also.

11. But, having perused the aforesaid documents, this Court finds that *prima facie*, the ingredients of the alleged offences appear to be made out primarily against co-accused Hanumant

Munde and Shrikant Kolhapure, as the allegations levelled by the informant and even the aforementioned Sanjay Salunkhe, who appears to be a middle man, indicate that the inducement and allurement was on the part of the said co-accused Hanumant Munde and Shrikant Kolhapure.

12. Reference to an agreement, in the form of a partnership deed/agreement dated 6th September 2020, executed between Vivek Pandit and co-accused Hanumant Munde, falls short of supporting the contentions raised by the learned APP and the learned counsel appearing for the intervenor, that the aforesaid document itself indicates that even the said applicant-Vivek Pandit had induced and allured the informant in parting with amount of Rs.2.5 crores for liquor license (FL-II CL-III). While the co-accused i.e. Hanumant Munde may have a grievance against the applicant-Vivek Pandit, but this cannot lead to a conclusion that the said applicant had induced and allured the informant to part with the amount of Rs.2.5 crores. As regards the involvement of the applicant in respect of similar activities pertaining to other liquor licenses, it is irrelevant while considering the present applications, which necessarily pertains to the subject FIR.

13. This Court finds that in such a situation, other than the statements of co-accused persons, there appears to be very little material to link the applicant with the specific ingredients of the offences of cheating and misappropriation registered against the co-accused persons. Transfer of amount of Rs.17 lakhs into the

account of the applicant-Vivek Pandit was taken into consideration while granting interim order dated 26th September 2024 and the reasons recorded while granting relief to the said applicant, quoted hereinabove, hold good for allowing the application itself.

14. As regards the applicant-Shakil Sayyad, although the aforesaid person Sanjay Salunkhe, who appears to be a middle man, has indeed mentioned the name of the applicant in the initial stages of the process of co-accused Hanumant Munde and Shrikant Kolhapure, extending inducement and allurement to the informant, the said allegations *prima facie* fall short of linking the said applicant to the act of inducement and allurement given to the informant, concerning the subject FIR. As noted in the interim order passed in favour of the said applicant, other than transfer of amount of Rs.10,000/- from the co-accused person Hanumant Munde, there is no allegation of any substantial amount finding its way to the said applicant. Therefore, this Court is inclined to allow both the applications.

15. There is also some substance in the contention of the applicants that the FIR registered in the present case can be said to be delayed. Hence, the applications are allowed. The interim orders passed in favour of the applicants are made absolute.

16. The applicants shall continue to co-operate with the investigation and they shall remain present before the Investigating Officer, as and when called.

17. The applicants shall also report to the office of the CID, Kolahpur, on 18th November 2024 and thereafter, on the first Monday of every month, till filing of the charge-sheet.

18. The applicants shall not influence the informant, witnesses or any persons concerned with the case and they shall not tamper with the evidence.

19. In view of the disposal of the anticipatory bail applications, pending interim applications also stand disposed of.

MANISH PITALE, J.