

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.82 OF 2024

Dr. Hiten Amrutlal Kenia	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Ashok M. Saraogi, Advocate for the Applicant.

Ms. Pallavi N. Dabholkar, APP for the Respondent-State.

Mr. Kripashankar N. Pandey, Advocate a/w. Darshan for the first informant.

CORAM : SARANG V. KOTWAL, J.

DATE : 19th JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.973/2023 registered at Kasturba Marg Police Station, Mumbai on 18.12.2023 under sections 406, 420 read with 34 of IPC.

2. Heard Mr Ashok Saraogi, learned counsel for the Applicant, Ms. Pallavi Dabholkar, learned APP for the Respondent-State and Mr. Kripashankar Pandey, learned counsel for the first informant.

3. The FIR is lodged by one Dharmang Dedia. He stated that he was staying with his family. He owned a General Stores. His daughter, aged 19 years, and his friend Jimi Desai's son, aged 18 years, were preparing for NEET Examination for taking admission in MBBS Course in 2022-2023. In February 2023, the informant had gone to the Applicant's clinic. The Applicant was a Doctor and had a clinic at Borivali. During conversation, the informant told him that his daughter was interested in getting admission in KEM Medical College. The Applicant told the informant that, besides the regular seats based on the marks in NEET, there was a management quota through which students could be admitted. The Applicant called the informant and told him that there was 5% management quota in KEM College and that he had a source who could get the admission through the Management quota. The informant again went to the Applicant's clinic and discussed the matter. He along with Jimi Desai met the Applicant in his clinic. At that time the Applicant assured them that he had a reliable source through

which the admission would be definitely secured in KEM Medical College.

4. On 12.3.2023, the Applicant introduced the informant and the others with one Heena. She told them that she was knowing the management and she was doing the work of getting admission through the Management quota but for that they needed to pay charges. She further informed that she knew one Mr. Jeevak who used to get admission for students through Management quota of the different medical colleges. At that time the Applicant had assured that if the admission was not finalized, then the amount would be returned to the informant. Heena told the informant that they had to pay Rs.62 Lakhs per student.

5. The FIR mentions that between 23.3.2023 and 11.5.2023, the informant and Jimi Desai paid Rs.1,15,00,000/- in cash to the Applicant. It is further mentioned that the Applicant told them that the said amount was given to Mr. Jeevak as suggested by Heena.

6. After that the NEET Examination was held. The informant's daughter and Mr. Desai's son did not get sufficient marks to secure their admission in any college. The informant and Mr. Jimi Desai pursued the matter with the Applicant but they could not get the admission as promised. Their money was not refunded. They went to Heena's house. She denied the entire deal. But she admitted that she knew the Applicant. The informant and his friend Desai lost the huge amount and on that basis the FIR is lodged.

7. Learned counsel for the Applicant submitted that the informant's daughter was appearing for the second time for NEET Examination. Therefore, they were well aware that there cannot be a Management quota for the Hospitals and Colleges run by the Municipal Corporation and, therefore, there could not be any Management quota in KEM College. He submitted that the informant and Jimi Desai could have been duped but the Applicant is not responsible for the same. The Applicant himself had given his own complaint on 20.10.2023 against Heena and the present informant alleging that the

informant was harassing him on the false allegations. He submitted that the Applicant is a doctor and if is arrested, it will ruin his career. Learned counsel further submitted that the Applicant is willing to cooperate with the investigation.

8. Learned counsel for the first informant as well as learned APP opposed these submissions. Learned counsel for the informant submitted that he had given an application to the police on 5.9.2023 itself and thereafter the Applicant has given his own complaint on 20.10.2023 as an afterthought. He further submitted that the informant was duped for a huge amount based on false representation. It was done mainly by the present Applicant. All the representations were made by the Applicant and the money was accepted by the Applicant himself.

9. Learned APP made her submissions based on the investigation carried out so far. She produced the bank entries showing the huge deposits in cash made by the Applicant in his bank accounts after the dates on which the amounts were paid by the informant and Shri Desai to the Applicant. She

also produced the WhatsApp chat messages exchanged between the Applicant and the aforesaid Heena which show that they were constantly in touch with each other and were discussing the money transactions. She submitted that Heena is already arrested and she has described the Applicant's role in detail.

10. I have considered these submissions. The FIR is clear enough. There are specific allegations against the Applicant. The representation was made by the Applicant himself. The money was accepted by the Applicant himself. Thereafter the money was not returned. The Applicant had no business to make any representation about the admissions. It is not possible to accept the submission that the Applicant is not connected with the offence.

11. The FIR mentions that the meeting with Heena had taken place in the Applicant's clinic. His own complaint also refers to the instance when the informant had supposedly approached him through Heena and had discussed about the admission. This theory is also improbable because if the

Applicant had nothing to do with the admission, the informant would not have approached him with his request to get admission for his daughter in KEM College.

12. There are WhatsApp messages exchanged between Heena and the Applicant. There are bank entries which are incriminating. There is sufficient incriminating material against the present Applicant. His custodial interrogation is absolutely essential. The informant and his friend Desai have lost huge amount. The money-trail is also an important factor which only the Applicant can disclose.

13. Considering all these factors, no case for protection under Section 438 of Cr.P.C. is made out. The Application is rejected.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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by
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