

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.293 OF 2024

Ankush Shahebrao Babar

...Applicant

vs.

The State of Maharashtra

...Respondent

**VISHAL
SUBHASH
PAREKAR**

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VISHAL SUBHASH
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Date: 2024.03.30
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Mr. Vishal Deshmukh i/b. Mr. Anil Panjol, for the Applicant.

Ms. Gauri Rao, APP, for the Respondent/State.

Mr. H.M. Nanaware, PI, DCB CID, Unit-6, Mumbai.

CORAM : N. J. JAMADAR, J.

DATE : MARCH 27, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The applicant who is arraigned in DCB CID C.R. No. 316 of 2022 (C.R. No. 666 of 2022 registered with Chembur police station, CCTNS No. 908 of 2022) for the offences punishable under sections 120-B, 420, 465, 468, 471 and 170 of Indian Penal Code, 1860 seeks to be enlarged on bail.

3. The applicant was working as a Peon (Chobdar) in General Administration Department, Mantralaya, Mumbai. The applicant and the co-accused Sachin Dolas, who was also working as a Peon in General Administration Department, allegedly entered into a criminal conspiracy with co-accused Mahadev Shirwale (accused No. 1), Nitin Sathe (accused No. 2), Mahendra Sakpal (accused No. 4), Satyam Gaikwad (accused No. 5), Gokuldas Kathale (accused

No. 6) and Bapu Jadhav (accused No. 8) to deceive the candidates who were in search of employment, by making a false representation that they would be given employment in Mantralaya, and induced them to part with huge amount. The applicant and the co-accused made a farce of subjecting the candidates to interview and medical examination. It is alleged the applicant facilitated the entry of the candidates in the Mantralaya by misusing the employee identity card and took them to the chamber, where the co-accused Nitin Sathe (accused No. 2) made a farce of interview of those candidates.

4. Mr. Deshmukh, the learned counsel for the applicant submitted that the role attributed to the applicant is that of facilitating the entry of the candidates into Mantralaya by misusing the employee identity card. The applicant had not made any inducement to any candidate nor the applicant had received any money from any of the candidates directly or indirectly. Nor is it the prosecution case that the applicant is the beneficiary of the fraud. The applicant is 60 years of age. Investigation is complete for all intent and purpose. The applicant has been in custody since 24th January, 2023. Therefore, the applicant deserves to be enlarged on bail.

5. Ms. Rao, the learned APP, resisted the prayer for bail. It was

submitted that the applicant has abused his position as an employee in Mantralaya. But for the facilitation provided by the applicant, the co-accused, who were not in Mantralaya service, could not have lured the unemployed youths to part with huge amount. As many as 35 candidates were deceived and a sum in excess of Rs. 1.5 Crore has been defrauded. Therefore, the applicant being a privy to the conspiracy does not deserve to be released on bail.

6. I have perused the report under section 173 of the Code of Criminal Procedure and the documents annexed with it.

7. Prima facie, the applicant and the co-accused have deceived unsuspecting unemployed youths to part with amounts by making a farce of recruitment process. The vulnerable situation of unemployed youths seems to have been exploited. However, the role attributed to the applicant seems to be that of assisting the candidates in gaining access to Mantralaya premises where they were subjected to interview. It is not alleged that the applicant either made an inducement to any candidate or accepted any money from any of the candidates. It does not appear that the applicant had created any false documents and used the false documents as genuine one. The learned APP fairly submitted that the investigation did not reveal that any part of the defrauded amount was credited to the account of the applicant.

8. In the aforesaid view of the matter, at this length of time, the considerations of one years of incarceration, investigation being practically complete and charge sheet having been filed and the age of the applicant, weigh in the exercise of discretion. The applicant appears to have roots to tie him down to his place of abode. The possibility of tampering with evidence and threatening the witnesses as well as fleeing away from justice also appears to be remote.

9. I am, therefore, persuaded to release the applicant on bail.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant Ankush Shahebrao Babar be released on bail in DCB CID C.R. No. 316 of 2022 (C.R. No. 666 of 2022 registered with Chembur police station, CCTNS No. 908 of 2022), on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.

3] The applicant shall mark his presence at DCB CID, Unit 6, Mumbai on the first Monday of every month between 11 am to 1 pm till conclusion of the trial.

4] The applicant shall not tamper with the prosecution

evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

5] The applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

6] The applicant shall regularly attend the proceedings before the jurisdictional Court.

7] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N. J. JAMADAR, J.)