

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

ANTICIPATORY BAIL APPLICATION NO. 1105 OF 2024

Deepak Shankar Bhandari

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Vijay Killedar i/b. Sumedh S. Modak for Applicant.

Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 24 APRIL 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.194 of 2024 registered at Khadakpada Police Station, Thane, on 21.02.2024, under sections 406 and 420 of the Indian Penal Code.

2. Heard Mr. Vijay Killedar, learned counsel for the applicant and Ms. Mahalakshmi Ganapathy, learned APP for the State.

3. The F.I.R. is lodged by one Archana Choudhari. She

was a Pathologist. They have their own pathology center by the name Om Sai Diagnostic Center. In 2015, one Dr. Gorakh Patil approached the informant and her husband. He told them that, he and the present applicant were starting a hospital at Ganpati chowk, Kalyan. They offered the informant to start their pathology services with that hospital. The informant accepted that proposal. The security deposit was agreed at Rs.25 lakhs. The said amount was paid between 2015 to 2018. In lieu of that amount, the informant was to get the place to conduct pathology laboratory tests, electricity bills, rent etc. There was an agreement for 15 years. After some time, the applicant and Dr. Gorakh Patil demanded Rs.7 lakhs. Thus, the informant paid Rs.27,27,772/-. The hospital did not start till 2017. The informant demanded refund of their amount. At that time, the informant was given a cheque of Rs.16 lakhs, but in the meantime, construction of the hospital was started. In January 2018, the agreement for 15 years was executed. The hospital by the name Shwas hospital started on 11.03.2018. The informant came to know that the applicant and Dr. Gorakh Patil had taken Rs.25 lakhs from one Sandesh Shukla

and the work of pathology testing was given to him. The informant again demanded refund of their amount. Said Shukla promised to refund that amount. After that, there was a dispute between the applicant and Dr. Gorakh Patil. From January 2019, for a few months, the Doctors were not available, therefore, patients were not admitted in the hospital, consequently, the informant's laboratory did not get any work. The place given for their diagnostic center was closed. It is alleged that the applicant took some amount from Dr. Shah and gave the same place to him. Dr. Shah removed the informant's articles and kept in the next room. Thus, according to the informant, the said premises was given to three persons. When questioned, the applicant gave a cheque of Rs.27,27,450/-. But it was dishonoured. The applicant again offered to give them work. The informant accepted the offer reluctantly. She has further stated that, again there was a dispute between the applicant and other doctors. The work stopped from July 2020.

4. From 01.08.2020, Dr. Dongre and Dr. Bavne started conducting the hospital and the informant started working with

them. But at that point, the payments in respect of the patients were accepted at the hospital counter; which was not acceptable to the informant. The informant still continued to work till October 2020. After that, again there was a dispute between the applicant and the other doctors and both these doctors i.e. Dr. Dongre and Dr. Bavne left the hospital. The hospital was again closed for 3 to 4 months. After the spread of Covid-19 pandemic, Dr. Gorakh Patil started the hospital. That time, the informant did not work with them. Their dues were not paid. On these allegations the F.I.R. was lodged.

5. Learned counsel for the applicant submitted that, this F.I.R. is lodged on 21.02.2024. Before that, the applicant himself had approached the police and had given his own complaint on 28.05.2022 mentioning how the informant and her husband had misappropriated the dues of Rs.87 lakhs payable to the applicant. The police did not take any action. Therefore, they filed a criminal case against the informant and her husband in the court of J.M.F.C., Kalyan on 02.01.2024. A prayer for investigation U/s.156(3) of the Cr.p.c. was made in that complaint. After all this,

as a counter blast, the first informant has lodged her F.I.R. at Khadakpada police station on 21.02.2024. He, therefore, submitted that the F.I.R. is lodged with a malafide intention to pressurise the applicant and as a counter blast to the legal steps taken by the applicant. He submitted that, in this situation, the applicant deserves protection U/s.438 of the Cr.p.c.

6. Learned APP opposed these submissions. She pointed out that the F.I.R. itself mentions that the same premises were given to three different parties by accepting amounts from them, therefore, intention of cheating was clearly made out. She relied on the allegations made in the F.I.R. to oppose this application.

7. I have considered these submissions. The F.I.R. itself mentions that the informant had actually conducted the pathology work in those premises, though, intermittently; but it is not her case that the premises were not given to her at all. The F.I.R. indicates that, she had started the work in that premises since 2018. There is mention that, in 2020 as well her business was conducted in those premises. Therefore, it cannot be said that the

applicant had not handed over the premises in spite of taking the money. There is substance in the submission of learned counsel for the applicant that, he had taken legal steps by making grievance against the informant at the earlier point of time and this F.I.R. was lodged after the steps were taken by the applicant. Therefore, there is substance in the submission of learned counsel for the applicant that this F.I.R. could be a counter blast. At this stage, it is not necessary to give definite finding on this dispute. Suffice it to say that the applicant has made out a case for grant of protection U/s.438 of the Cr.p.c. It would be sufficient if the applicant co-operates with the investigation.

8. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.194 of 2024 registered at Khadakpada Police Station, Thane, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)