

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2251 OF 2024

Dashrath Vikas Bavkar

...Applicant

Versus

The State of Maharashtra

...Respondent

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SANDIP
PARAB

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- Mr. Harshad A. Sathe, for Applicant.
- Ms. Rutuja A. Ambekar, APP for Respondent.

CORAM: MANISH PITALE, J.

DATE : 25th SEPTEMBER, 2024.

P. C. :

1. Heard, Mr. Sathe, learned counsel for the applicant and Ms. Ambekar, learned APP for the respondent – State.

2. By order dated 29.08.2024, this Court granted interim order in favour of the applicant subject to specific conditions. One of the conditions was that the the applicant would appear before the Investigating Officer on 31.08.2024, and thereafter as and when required by the Investigating Officer.

3. When the application is called out for hearing, the learned APP, on instructions, submits that the applicant did appear before the Investigating Officer as directed by this Court, but he did not cooperate with the investigation, specifically stating that applicant has not produced stolen stamp papers and other cheques.

4. The learned counsel appearing for the applicant submits that when the stand of the applicant is that there was no question of stealing of stamp papers or cheques, non production thereof, cannot be said to be a sign of lack of cooperation with the investigation. The learned counsel for the applicant reiterates the submissions that were made before this Court when the interim order was passed. He is pressing for the application being allowed.

5. There is substance in the contention raised on behalf of the applicant that cooperation with investigation does not mean that the applicant – accused has to admit to his guilt. It is undisputed that the applicant did remain present before the Investigating Officer as directed by this Court.

6. While granting interim relief in favour of the applicant, this Court in the order dated 29.08.2024, observed as follows :

“5. This Court has heard the learned counsel for the applicant and the learned APP on the basis of the papers available alongwith the application and this Court is inclined to grant interim relief to the applicant for the following reasons:

- (i) The papers on record show that on an earlier occasion i.e. on 27.09.2022, the informant caused an FIR to be registered against the applicant for various offences, including serious offence under Section 377 of the IPC. In the proceedings concerning the said FIR, the applicant was granted regular bail. The informant filed an application for cancellation of bail and thereafter, the*

said application was disposed of as not pressed on 03.05.2024.

- (ii) In the context of a cheque for an amount of ₹ 10 lakhs purportedly issued by the informant in favour of the applicant in September 2023, the applicant initiated proceedings for dishonour of the cheque under Section 138 of the Negotiable Instruments Act, 1881 (N.I. Act). In the said proceedings, the informant applied for settlement of the dispute and also filed an affidavit before the Magistrate, stating that he would be returning the entire amount of ₹ 10 lakhs to the applicant. An amount of ₹ 50 thousand was paid and it was undertaken that the remaining amount of ₹ 9.5 lakhs would be paid to the applicant on the next date of listing. The present FIR is registered on 18.03.2024 with respect to the cheques, including the cheque which forms the subject matter of the proceedings under Section 138 of the N.I. Act. It is significant to note that the aforesaid affidavit was filed by the informant in the said proceedings on 30.04.2024 i.e. after registration of the present FIR on 18.03.2024 and it is crucial to note that in the affidavit before the Magistrate in the proceedings under Section 138 of the N.I. Act, the informant has himself stated that he caused the present FIR to be registered against the applicant on the basis of a misconception. Prima facie, the informant himself appears to be shifting stands.*

- (iii) The applicant has undertaken to co-operate with the*

investigation and the nature of allegations made in the present FIR indicate that the investigation would necessarily involve documentary material and the applicant is ready to produce all documents that are in his possession.”

7. This Court is of the opinion that for the above quoted reasons, the application itself deserves to be allowed, as the applicant has indeed abided by the conditions imposed by this Court while granting interim relief. There is no further material produced to convince this Court to hold otherwise.

8. In view of the above, the interim order dated 29.08.2024 is confirmed and the application is allowed. The applicant is directed to continue to cooperate with the investigation and he shall abide by condition (c) imposed in the paragraph No.6 of the interim order dated 29.08.2024.

(MANISH PITALE, J.)