

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2495 OF 2024

Vitthal Bhoja Rathod ... Applicant
Vs.
State of Maharashtra ... Respondent

Ms. Nagma Tandon for Applicant.

Mr. Mayur S. Sonavane, APP for Respondent-State.

Mr. A. S. Moholkar, H.C., Sangola Police Station.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 18, 2024

P.C. :

. Heard Ms. Tandon, learned counsel for the applicant and Mr.Sonavane, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0805 of 2023 dated 01.09.2023 registered with Sangola Police Station, District - Solapur Rural, for offences under Sections 406 and 420 of the Indian Penal Code, 1860 (IPC).

3. The statement of the informant leading to registration of the FIR indicates that according to the informant while substantial amounts were paid to the applicant for providing labour for sugarcane cutting, the applicant did not provide labour as per the agreed terms between the informant and the applicant. It is alleged that when shortfall was noticed, the informant pursued the matter with the applicant for refund of amount. But, the applicant avoided to do so, thereby indicating that he committed the said offence.

4. The learned counsel for the applicant submits that in the present

case, the statement of the informant itself reveals that the informant allegedly paid amounts of Rs.12 lakhs and Rs.2 lakhs in cash. There is no documentation for the same. The transfer of amount of Rs.10.45 lakhs into the bank account of the applicant is also disputed and it is claimed that a lesser amount was transferred in respect of which proportionate labour was provided by the applicant. The transfer of specific amount through *PhonePe* to the son of the applicant is also denied. Reliance is placed on certain documents issued by the sugar factory concerned with the work of sugarcane cutting. Reliance is also placed on the figures mentioned therein and an attempt is made to reconcile the same to indicate that the applicant had indeed provided labour as per the payments received from the informant. It is submitted that the applicant is ready to co-operate with the investigation and a dispute, essentially of civil / commercial nature, is unnecessarily being given the colour of criminality.

5. On the other hand, the learned APP relies upon statements recorded during the course of investigation, which indicate that at least two more persons have raised grievance identical to that of the applicant. In their cases also, the applicant failed to provide labour as promised and there was a shortfall, in respect of which the applicant refused to give refund to the said witnesses also. It is submitted that in this context, the custody of the applicant would be necessary.

6. This Court has considered the rival submissions in the backdrop of the material available on record, including the investigation papers produced for perusal of this Court.

7. A perusal of the statement of the informant itself shows that the allegation is not that the applicant, from the very beginning, had no intention to provide any labour at all to the informant. In fact, the informant himself concedes that labour was provided but there was a

shortfall. Reference is made to the amounts transferred in favour of the applicant. But it is relevant to note that substantial amounts of Rs.12 lakhs and Rs.2 lakhs are said to have been given in cash to the applicant. The investigation papers do not reveal any receipts or acknowledgments issued by the applicant in that context. In fact, the documents on record, including the statement issued by the concerned sugar factory indicates the tonnage of the sugarcane provided, in the process of which, the labour provided by the applicant was involved. This Court is informed that the unit of labour is termed as '*koyata*', meaning thereby, one *koyata* is equivalent to two workers.

8. The statement of the informant itself shows that the applicant fell short by four *koyatas* i.e. 8 workers and that is the grievance of the informant. It is not alleged that the applicant did not provide workers or labour at all and in such a situation, it cannot be said that from the very inception, the applicant had the intention of providing less number of workers or labour while charging full amount to the informant.

9. In fact, considering the allegation about cash amounts being transferred and the counter-allegation being made by the applicant that specific amount was received for which proportionate labour / workers were provided, *prima facie* it appears to be case of difference of opinion on accounting and the dispute appears to be civil / commercial in nature.

10. The grievance of the two witnesses, which has come to the fore during the course of investigation, appears to be identical to that of the informant. They have also not alleged that they were lured into making payments to the applicant on the promise of labour / workers being provided and no workers were at all provided. In fact, the said witnesses also claim that there was a shortfall of few workers / labour on the part of the applicant. In their cases also, it appears that there are allegations and counter-allegations pertaining to the amount received by the

applicant and the number of workers / labour provided for sugarcane cutting factory. In view thereof, *prima facie* case is indeed made out by the applicant in his favour to claim that a dispute, which is essentially of civil / commercial nature is being given the colour of criminality.

11. So long as the applicant is ready to co-operate with the investigation, this Court is inclined to grant protection from arrest.

12. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0805 of 2023 dated 01.09.2023 registered with Sangola Police Station, District - Solapur Rural, he shall be released on bail on furnishing PR Bond of Rs.25,000/- with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 20.09.2024 and 21.09.2024 and thereafter as and when called by the investigating officer. He shall co-operate with the investigation;
- C. The applicant shall not contact the informant in any manner during the pendency of the investigation;
- D. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

13. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the

applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

14. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab