IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No. 2516 of 2024

Abu Talib Shaikh
Age 39 years, Occ. Service,
Room No.25, Sami Compound,
Pipe Road, Wahid Hotel,
Kurla (W), Mumbai – 400 070. ...Applicant

Vs.

The State of Maharashtra ...Respondent

Mr AS Khan a/w RT Shaikh, a/w. Ms. Sneha S., for the Applicant.
Ms Supriya Kak, APP for the Respondent – State.
PSI Dnyaneshwar Popalghat, V. B. Nagar Police Station, is present.

Coram: R. N. Laddha, J.
Date: 11 September 2024

P.C.

Heard Mr AS Khan, the learned counsel for the applicant and Ms Supriya Kak, the learned Additional Public Prosecutor representing the respondent / State.

2. This is an application for pre-arrest bail filed by the applicant, apprehending arrest in CR No.192 of 2024, registered at Vinoba Bhave Nagar Police Station, Mumbai, for offences punishable under Sections 420 and 406 read with 34 of the Indian Penal Code.

3. It is the case of the prosecution that the first informant intended to admit his children and nephew to Holy Cross and Fatima School in

Kurla(West), Mumbai. He introduced to the applicant through an acquaintence Zahida, in relation to the admissions. The applicant and his wife promised to secure the admissions and demanded Rs.1,00,000/- per child, but the first informant negotiated the amount to Rs.80,000/- per admission. Between June and July 2019, the first informant paid Rs.1,45,000/- to the applicant and his wife. Another witness, Afsar Ali Khan, also wanted to admit his children to Fatima High School and paid Rs.1,00,000/- to the applicant. However, neither the applicant nor the witness Afsar Ali Khan got admission in the school for their children and the applicant did not return the money to them, leading the first informant to lodge a police complaint realising they had been cheated.

4. Mr AS Khan, the learned Counsel for the applicant, submits that the applicant has been falsely implicated in the present crime. According to the learned Counsel, the informant was involved in wrong doing, which disqualifies him from making any equitable defence or claim for loss. The co-accused, who is the applicant's wife, has already been granted anticipatory bail by the Sessions Court. The applicant who works as a Peon, was employed with Mr Zende, a former police officer. The transactions in the applicant's account occurred without his knowledge, and the alleged amount was withdrawn by Mr Zende. There has been a significant delay in filing the FIR. Following Mr Zende's death, the informant has been using State machinery to exert pressure on the applicant. The informant forcibly took a cheque

from the applicant under the threat of false implication. The applicant is willing to cooperate with the investigation.

5. Ms Supriya Kak, the learned APP, representing the State, submits that the applicant promised the first informant and witness to secure school admissions for their children in exchange of certain amount of money. The applicant falsely represented that the admissions were completed, showed admission forms, and demanded the remaining amount. This act demonstrates the applicant's misrepresentation and inducement, leading the informant and the witness to part with their money. A certain amount was transferred to the applicant's bank account. The applicant is the mastermind of the crime, having accepted money from both the informant and the witness. Regarding the delay the learned APP, points out that the co-accused, the applicant's wife, filed a complaint against the applicant, stating that she was repeatedly called to the police station as she had promised to return the money. The applicant cannot take benefit of her own conduct to justify the delay.

6. Upon perusing the records, it appears that there is a material to show that the applicant promised the informant and witness to secure school admissions for their children in exchange for a certain amount of money which he accepted through bank transactions in his account. The material on record prima facie indicates the applicant's active involvement in the crime. The investigation is at a nascent stage and

may implicate others. The documents are yet to be recovered. In the circumstances, this Court is not inclined to exercise its discretion in favour of the applicant. Accordingly, the application stands rejected.

[R. N. Laddha, J.]