IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No. 2987 of 2024

Jitendra Bhikha Solanki
Age 51 years, Occ.: Service,
R. N. 52, Central Railway CLY,
Matunga, T. H. Kataria Marg,
Mumbai – 400 019. … Applicant

versus

The State of Maharashtra
Mahim Police Station … Respondent

Mr Khwaja Shaikh, for the applicant.
Mr Swapnil Pednekar, APP, for the respondent/ State.

Coram: R.N. Laddha, J.
Date: 25 October 2024

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.461 of 2024, registered at Mahim Police Station, Mumbai, for offences punishable under Sections 406 and 420, read with 34 of the Indian Penal Code.

2. The prosecution alleges that the applicant, along with the co-accused, demanded Rs.10 lakhs under the guise of promising a job for the informant's son in the Municipal Corporation of Greater Mumbai ('MCGM') and accepted a significant sum as

an advance.

3. Mr Khwaja Shaikh, the learned Counsel appearing on behalf of the applicant, submits that the applicant has been falsely implicated in this crime. There has been an undue and significant delay in lodging the FIR, which raises concerns regarding the credibility of the allegations. The applicant is a permanent employee of the MCGM and, as such, is not considered a flight risk. Furthermore, the investigation has progressed to an advanced stage. The applicant's custodial interrogation is neither not required at this juncture.

4. On the other hand, Mr Swapnil Pednekar, the learned Additional Public Prosecutor representing the respondent/ State, submits that there are witnesses who were present when the applicant demanded and accepted funds. The applicant has received Rs.2 lakhs directly in his bank account. Following this, a cheque for Rs.3 lakhs was issued upon further demand. In return, the applicant assured the informant that her son would be provided a job in the Solid Waste Management Department of the MCGM. To support this claim, the applicant handed over the purported job order and medical examination report, simultaneously demanding the balance payment of Rs.5 lakhs. The applicant received the cheque of Rs.3 lakhs, which was

deposited into the account of one Hemlata, the wife of the deceased co-accused. Additionally, the applicant provided a fake identity card and other fraudulent documents to the informant's son.

5. Mr Pednekar further submits that the applicant repeatedly gave false assurances to the informant that her son's employment was forthcoming. Frustrated by the applicant's continued promises, the informant conducted an independent inquiry with the MCGM. Through this inquiry, the informant discovered that the applicant had deceived her, as no employment had been provided to her son, and the documents were forged and fraudulent. The learned APP also submits that there is possibility of other individuals' involvement in the crime and similarly circumstanced victims.

6. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records.

7. Granting anticipatory bail demands a thoughtful and judicious exercise of discretion by the Court, tailored to the unique facts of each case. When invoking this power, the Court must tread with caution, acknowledging that granting protection in serious cases may inadvertently compromise justice or impede the investigation by enabling evidence

tampering or destruction. A profitable reference in this regard can be made to the decision of the Hon'ble Supreme Court in ***Srikant Upadhyay v. State of Bihar***[1].

8. Furthermore, the principles to be considered for granting anticipatory bail are settled. The Court, firstly, must consider the *prima facie* case against the accused; secondly, the nature of the offence; and thirdly, the severity of its punishment. While bail can be denied on the requirement of custodial interrogation, its non-requirement cannot by itself be the sole ground to grant pre-arrest bail. These aspects are highlighted in ***Sumitha Pradeep v. Arun Kumar C.K***[2].

9. In the present case, the applicant has not denied the receipt of Rs.2 lakhs into his bank account. The allegations in the FIR indicate that the applicant is the linchpin of the offence. It is alleged that the applicant made false promises to the informant, assuring her that he would secure a job for her son in the Solid Waste Management Department of the MCGM. To reinforce this deception, the applicant allegedly provided forged documents suggesting that the informant's son had been employed in the department. These forged documents are between March 2015 and November 2016, with the

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[1] 2024 SCC OnLine SC 282.
[2] 2022 SCC OnLine SC 1529.

transfer of Rs.2 lakhs into the applicant's bank account occurring around the same time as the issuance of these documents.

10. In the totality of the circumstances, this Court is not inclined to accede to the submissions on behalf of the applicant that there is a delay in lodging the FIR and no offence as alleged is *prima facie* made out. In cases of this nature, custodial interrogation becomes essential to unearth the fraud in all its facets. The possibility of there being similarly circumstanced victims is also eminent. In these circumstances, the applicant's release on pre-arrest bail would impede the investigation. Therefore, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

(R.N. Laddha, J.)