

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3021 OF 2024

Manish Nagesh Doiphode ... Applicant
Vs.
State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION (ST.) NO.23003 OF 2024
AND
ANTICIPATORY BAIL APPLICATION NO.2895 OF 2024

Pooja Manish Doiphode ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Ganesh Gupta (through VC) a/w. Mr. Sahil Ghorpade, Mr. Surya P. Gupta, Mr. Madan Khansole and Mr. Jagrut Patil i/b. G. G. Legal Associates for Applicant in ABA/3021/2024.

Mr. Prasanna P. Malshe, APP for Respondent-State in ABA/3021/2024.

Mr. Bhushan Mahajan (through VC) for Applicant in IAST/23003/2024.

Mr. Vishal Kolekar a/w. Mr. Shubham Kadam for Applicant in ABA/2895/2024.

Mr. Mayur S. Sonawane, APP for Respondent-State in ABA/2895/2024.

Mr. D. V. Solanke, PSI, Dehu Road, Police Station, Pimpri Chinchwad.

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 14, 2024

P.C. :

. Heard Mr. Gupta and Mr. Kolekar, learned counsel for the applicants, Mr. Malshe and Mr. Sonawane, learned APPs for the respondent-State, as also Mr. Mahajan, learned counsel appearing for the intervenor.

2. In Anticipatory Bail Application No.2895 of 2024, on 25.10.2024, this Court granted interim relief in favour of the applicant, subject to specific conditions, including a direction to remain present before the investigating officer.

3. Anticipatory Bail Application No.3021 of 2024 is coming up for consideration for the first time. The applicants are husband and wife.

4. The learned counsel for the applicants submit that in the present case, the nature of grievance raised by the informant, which has led to registration of the FIR, itself, indicates that there is a civil / commercial dispute between the parties, and that such a dispute is sought to be given a colour of criminality. It is submitted that the applicant - Manish Doiphode had himself approached the very same police station on 25.07.2023 with his version of the grievance and yet, the police took no action in the matter.

5. In this context, the learned APPs submit that it is in fact the informant, who approached the police prior in point of time, but there is nothing placed on record to indicate that the informant had approached the police prior to 25.07.2023. In any case, it is relevant to note that while the grievance of the informant pertains to transactions that took place in the year 2022, the FIR was registered much later on 10.08.2024.

6. The learned counsel for the applicants submit that since the applicants are ready to co-operate with the investigation, this Court may consider allowing the application as the applicants undertake to produce all documents in their possession as may be demanded by the investigating officer.

7. On the other hand, the learned APPs submit that the ingredients of the offences are clearly made out as the informant parted with substantial amount of money on an impression given by the applicants that medical shop could be opened in the multi-specialty hospital with which the applicants are concerned. It is submitted that appropriate documents were not executed due to delaying tactics of the applicants, while huge amounts were received from the informant. Much emphasis

was placed on statements given by the witnesses during the course of investigation with regard to the similar tactics adopted by the applicants with other individuals also and it was emphasized that as on today, as per investigation, total amount of Rs.41 lakhs has been received by the applicants in such a manner and in the process, innocent persons like the informant have been duped.

8. This Court has considered the rival submissions in the light of the material on record. The statement of the informant itself indicates that the parties, in the present case, interacted with each other and entered into transactions on the basis that the informant would be able to open a medical shop in the aforesaid multi-specialty hospital. The thrust of the allegations appears to be that, while huge amounts were received by the applicants, they did not facilitate opening of the medical shop and the impression given to the informant and other similarly situated persons that such medical shop or pharmacy could be opened, was given from the very inception with dishonest intention. A specific allegation is made that, when the informant approached the concerned authority for issuance of licence for medical shop, it was found that there was already a licence operating and therefore, further licence could not be granted. In this context, when a specific query was put to the learned APPs as to whether there is any prohibition on issuance of further licence in a multi-specialty hospital for medical shop when a licence has been already issued concerning the very same hospital, nothing could be shown as regards any such prohibition. In fact, it appears that the investigating officer has not carried out investigation from this angle by approaching the concerned Drug Controlling Authority, and therefore, as on today, there is no material to support the aforesaid allegation made by the informant against the applicants.

9. The documents show that while the amounts were paid and the

transaction was undertaken way back in December 2022, the FIR has been registered much later on 10.08.2024. *Prima facie*, it can be said that the FIR is belated. Apart from this, the nature of the grievance sought to be raised by the informant against the applicants and on the other hand by the applicants against the informant in terms of the earlier complaint dated 25.07.2023 submitted by the applicant - Manish Doiphode with the said police station, *prima facie* appears to be civil / commercial in nature. There is substance in the contention raised on behalf of the applicants that such a dispute is sought to be given the colour of criminality.

10. The emphasis placed on statements of witnesses and similarly situated persons raising grievance against the applicants, *prima facie*, appears to be misplaced because the grievances of such persons also pertain to the year 2022. They did not even make any specific complaint to the police in respect of their grievances. Therefore, this Court is of the opinion that the applicants have made out the case in their favour for allowing these applications. As a specific grievance was made against the applicant - Pooja Doiphode that although she remained present before the investigating officer in terms of the interim order dated 25.10.2024, but she did not co-operate with the investigation, this Court is of the opinion that specific directions can be issued. The learned counsel for the aforesaid applicant has tendered copies of documents to show that she remained present before the investigating officer as per the interim order and that she did submit documents, which have been acknowledged by the concerned police station.

11. In view of the above, the applications are allowed in the following terms:-

- A. In the event the applicants are arrested in connection with FIR No.0371 of 2024 dated 10.08.2024 registered with Dehu

Road Police Station, District - Pimpri Chinchwad, they shall be released on bail on furnishing PR Bond of Rs.50,000/- each with one or two sureties each in the like amount;

- B. Both the applicants shall remain present before the investigating officer on 18.11.2024 and 19.11.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer.
- C. The applicants shall fully co-operate with the investigation, including producing documents in their possession as demanded by the investigating officer;
- D. The applicants shall also provide their latest and correct addresses of workplace and residence, along with details of their active mobile numbers and other contact numbers;
- E. The applicants shall not influence the informant, witnesses or any person concerned with the case and they shall not tamper with the evidence.

12. Needless to say, violation of any of the aforesaid conditions would make the applicants 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 applicants in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

13. The applications are disposed of.

14. In view of the above, the intervention application is also disposed of.

(MANISH PITALE, J.)