



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (ABA) NO.160 OF 2024

(Chandrakant s/o Bhaiyyaji Rakhunde Vs. State of Maharashtra thr. its PSO PS
Ranapratap Nagar, Nagpur and another)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. Akshya A. Naik, Advocate with Mr. C. G. Barapatre, Advocate for
Applicant.

Mr. M. J. Khan, APP for Non-Applicant Nos.1 & 2/State.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 2nd APRIL, 2024.

Heard.

2. Apprehending the arrest at the hands of police in connection with Crime No.539/2023 registered with Police Station Ranapratap Nagar, Nagpur for the offence punishable under Sections 120(B), 294, 387, 420, 468, 471 and 506 of the Indian Penal Code, the applicant approached this Court for grant of pre-arrest bail.

3. As per the allegation the FIR is lodged by one Pankaj Suresh Raverkar alleging that he is working as a Government Contractor and well acquainted with Mrs. Sushma Bondre who is working as a Superintendent Engineer in P.W.D., Nagpur. On 25.03.2023 he met applicant through Sachin Deshmukh and Mangesh Kumar in the office of Sushma Bondre. It is alleged that the applicant

posed himself as a person acquainted with the high profile officers and ministers. On 04.05.2023 the informant again met applicant at the chamber of the said Sushma Bondre at that time the applicant told Sushma Bondre that the higher authorities are not impressed with her official work and she is under surveillance and her confidential report is being prepared and she will be transferred at a longer distance, due to which she was mentally disturbed and therefore, she asked the informant to help us. To help the informant has paid amount of Rs.20 lakhs to the said applicant as during inquiry it revealed to the informant that no such proposal of transfer of Sushma Bondre is pending with the Ministry he demanded the amount back but the amount was not paid and therefore, he lodged the FIR against the present applicant.

4. The learned counsel for the applicant Mr. Naik submitted that the entire story narrated by the informant appears to be improbable and false. There is no material to show that the amount of Rs.20 lakhs is paid to the present applicant by the informant. He submitted that even accepting the allegation as it is the custodial interrogation of the applicant is not required. He further submitted that the allegation is falsified by the document that as per the allegation on 06.09.2023 the applicant had threatened the informant. In fact on 06.09.2023 the applicant was not in Nagpur but he had been to Mumbai and he placed reliance on the boarding pass to show that the applicant has

travelled to Mumbai on that day. Thus he submitted that considering the entire allegation which is improbable and acceptable. On the contrary, the applicant has filed an application with the Senior Police Inspector, Ranapratap Nagar Police Station, Nagpur alleging against the present applicant and other two accused that present informant and other two persons have threatened him as on they are working and dealing with the property dealing at Mumbai and the other places. There was some transaction between them and out of that the false FIR is lodged by the informant. He submitted that considering the entire scenario the custodial interrogation of the present applicant is not required as nothing is to be recovered from him the applicant is ready to co-operate with the Investigating Agency. In support of his contention he placed reliance on the decision of the Apex Court in the case of ***Deepak Kumar Shrivastava and another v. State of Chhattisgarh and others*** reported in ***2024 SCC OnLine SC 158*** wherein the Apex Court held that after reading of the entire material on record which clearly reflects that it was totally an unlawful contract between the parties where money was being paid for securing a job in the government department or private sector. Apparently, a suit for recovery could not have been filed for the said purpose and even if it could be filed, it could be difficult to establish the same where the payment was entirely in cash. Therefore, the respondent no.6 found out a better medium to recover the said amount by building pressure on the appellant and his brother by lodging the

FIR. Under the threat of criminal prosecution, may be the appellant would have tried to sort out and settle the dispute by shelving out some money. The Hon'ble Apex Court also observed that from the factual matrix warrant of closer reflection. *Prima facie*, the conduct exhibited by the parties involved appears tainted with suspicion, casting a shadow over the veracity of their claims. The report from the previous inquiry reflects a convoluted landscape and unveils a trail of unethical, may be even criminal, behaviour from both parties. The unexplained inordinate delay in bringing these allegations to the police's attention despite knowledge of the previous inquiry, raises even more doubts and adds a layer of scepticism to the authenticity of the claims. The facts stated, as well as the prior inquiry, reveal a shared culpability between the parties, indicative of a complex web of deceit, and unethical transactions where even civil remedies may not be sustainable.

5. He submitted that similar is the case in the present matter as there is an unlawful contract between the parties where money was being paid allegedly in a cash. He submitted that this FIR is lodged only to pressurize the applicant to grab the amount from him. As far as custodial interrogation is concerned which is not required and pressed for the anticipatory bail in favour of the present applicant.

6. The learned APP strongly opposed the said

application on the ground that during investigation the statement of one Mangesh Prabhakar Rao Bhakre was recorded who also states that in his presence the informant has paid the amount to the present applicant. He submitted that the custodial interrogation of the applicant is required and therefore, the application deserves to be rejected.

7. Having heard the learned counsel for the applicant and the learned APP for the State, perused the investigation papers though informant and the witness namely Mangesh Prabhakar Rao Bhakre states that the amount was paid but they nowhere stated on which date the said amount is paid. In view of the observations admittedly the amount is paid for the unlawful contract and the entire amount was paid in a cash. Though the Investigating Officer has collected the account extract of the account of the present applicant nothing reveals from that the said amount was already paid by the applicant in his account after receipt of the same. Thus, except the bare statement of the informant and the witness there is no other material to show that the said amount was received by the applicant. Considering the observation of the Hon'ble Apex Court the possibility cannot be ruled out. However, investigation is at the initial stage and therefore, said observation cannot be made at this stage. Considering that the custodial interrogation of the present applicant is not required and as far as the submission of the learned APP that the mobile phone of the present applicant is required for the investigation purpose is

concerned can be taken care of by directing the present applicant to produce the same before the Investigating Officer for the investigation purpose. In view of that, I proceed to pass following order:

- i) The application is allowed.
- ii) In the event of arrest in connection with Crime No.539/2023 registered with Police Station Ranapratap Nagar, Nagpur for the offence punishable under Sections 120(B), 294, 387, 420, 468, 471 and 506 of the Indian Penal Code, the applicant shall be released on anticipatory bail on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- iii) The applicant shall produce his mobile phone before the Investigating Officer for investigation purpose and the said period shall be considered in custody for the purpose of Section 27 of the Indian Evidence Act.
- iv) The applicant shall attend the police station twice in week from Friday between 10:00 a.m. to 01:00 p.m. and shall co-operate with the Investigating Agency.

- v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
8. The application is disposed of.

JUDGE

NSN