



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

CRIMINAL APPLICATION (ABA) NO. 516 OF 2023

Vivek Shamrao Kapgate V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.S. Renu, counsel for the applicant.
Mr. A.B. Badar, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 15/03/2024.

1. Apprehending the arrest at the hands of Police, in connection with Crime No. 159/2023 registered with Police Station Sitabuldi, District Nagpur, for the offence punishable under Sections 420, 465, 468 and Section 471 read with Section 34 of the Indian Penal Code, 1860, the applicant approached this Court for grant of pre-arrest bail.

2. The allegation against the present applicant is that co-accused namely Nishikant Ragatpure assured the complainant that he will help to provide the job to his unemployed son namely Anup Chaudhari in a government job, if he is ready to spent Rs. 10 to 11 lakhs. The informant swayed away by the said assurance and shown his readiness to pay the amount of Rs. 10 lakhs to the co-accused, and for arranging a money, he sold his four acres of agricultural land situated at Mouza Mahendrai Tahsil Narkhed. The prosecution

further alleges that as per the instruction of the co-accused, the complainant paid Rs. 1,50,000/- in the account of the main accused No.1 and prepared a demand draft of Rs. 2,51,000/- in favor of the Union Minister.

3. It further reveals from the investigation papers, that the amount of Rs. 6 lakhs was paid by the informant to the co-accused, and the co-accused paid this amount to the present applicant. After accepting the money, no job is provided to the son of the complainant and forged letter of appointment was issued to him. On the basis of said report, the police have registered the crime against the present applicant and other co-accused.

4. Heard learned counsel for the applicant. He submitted that all the other co-accused are already released on bail, as far as the present applicant is concerned, who is also a victim at the hands of the other persons. The applicant was working in J.M.S. Mining Private Limited which is 2000 KM away from Bhopal. So, the presence of the applicant was not there, when the amount was handed over to the co-accused. He further submitted that considering the other co-accused are already released on bail, his custodial interrogation is not required. In view of that, he be protected by granting anticipatory bail.

5. The learned APP strongly opposed the application on the ground that the present applicant has received the amount which is paid to the co-accused. The applicant has

played the vital role. The statements of the witnesses also shows the association of the present applicant with the co-accused. He submitted that considering the prima-facie case is made out and the circumstances under which the alleged incident has taken place, the application deserves to be rejected.

6. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. The allegation against the present applicant and other co-accused is concerned, which shows that the co-accused has promised the complainant that he will help him to secure the job for his son but he has to incur the expenses of Rs. 10 to 11 lakhs for that purpose, he accepted the amount. As per the allegation, the complainant has paid the amount of Rs. 6 Lakhs on 30/10/2018 in presence of the present applicant and the co-accused Nishikant Ragatpure has paid the amount to the present applicant. The statements of other witnesses also shows the involvement of the present applicant in the alleged offence. It appears that present applicant and other co-accused by taking advantage of the unemployment of the son of the complainant, sought the money to provide the job to him. It also reveals from the allegation that the said amount was obtained by the co-accused on the name of the Minister.

7. Considering the entire allegations against the present applicant and the statement of the various witnesses, prima-facie case is made out against the present applicant. In

view of that the application deserves to be rejected.
Accordingly, I proceed to pass the following order:

The criminal application is rejected.

[URMILA JOSHI-PHALKE, J.]