



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

CRIMINAL APPLICATION (ABA) NO.642 OF 2023

Sunil s/o Madhukar Nagargoje

Vs.

The State of Maharashtra, Through Police Station Officer, Police Station, Darwha,
District Yavatmal

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

Court's or Judge's orders

Mr. Anil Mardikar, Senior Counsel a/b Mr. Digvijay Prakahsh Singh, Advocate for
applicant.

Mrs. M. A. Barabde, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 30/01/2024

1. The applicant apprehending his arrest at the hands of police in connection with Crime No.635/2023 registered with Police Station, Darwha, District Yavatmal for the offence punishable under Section 420 of the Indian Penal Code. The applicant approached this Court for grant of anticipatory bail.

2. The accusation against the present applicant is on the basis of report lodged by Sandip Ashok Gaikwad employee of Nagar Parishad, Darwha on an allegation that the applicant, who is the Contractor running his firm in the name of Indrayani Constructions, Chhatrapati Sambhaji Nagar, who has floated a tender for obtaining the work supply of water to the Darwha city. He had not completed the said work and thereby

duped the Nagar Parishad. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Senior Counsel Mr. Anil Mardikar for the applicant submitted that as far as the allegations are concerned, the dispute is of a civil nature and no criminal offence is made out. He submitted that at the most, it is a breach of an agreement for which the Nagar Parishad is having other remedies. The custodial interrogation of the present applicant is not required and, therefore, interim protection granted in favour of the present applicant deserves to be confirmed.

4. Per contra learned APP strongly opposed the application on the ground that during the investigation, it revealed that the applicant has obtained the work on the basis of false and forged experience certificate and therefore, it is not a fit case to use the discretion in favour of the present applicant and the application for anticipatory bail deserves to be rejected.

5. Having heard the learned Senior Counsel for the applicant and learned APP for the State and perused the recitals of the FIR. Admittedly, there are no allegations in the FIR that the present applicant has obtained the work on the basis of forged experience certificate. During investigation, the Investigating

Officer has recorded the statement of Vishwanath Trimbak Lahane, who has stated that he has not issued any experience certificate to the applicant and the applicant never approached to him for obtaining the said experience certificate. The impugned certificate is forwarded to the handwriting expert and the report is yet to be awaited. Thus, the purpose of the custodial interrogation is already served, as the certificate has already forwarded to the handwriting expert. The original certificate is filed by the applicant along with his tender and therefore, it may be available with the Municipal Counsel, Darwha. The Investigating Officer can obtain the said certificate during the investigation and same can be forwarded to the handwriting expert. As far as the custodial interrogation of the present applicant is concerned, considering the allegation against him which is not required. In view of that, interim protection granted in favour of the present applicant deserves to be confirmed. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Sunil s/o Madhukar Nagargoje** be released on anticipatory bail in the event of his arrest in connection with Crime No.635/2023 registered with Police Station, Darwha, District Yavatmal for the offence punishable under Section 420 of the Indian Penal Code, on executing PR bond in the sum of

Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned Police Station on every Friday between 10.00 a.m. to 1.00 p.m. for two months.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(URMILA JOSHI-PHALKE, J.)