

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.190 OF 2025

Subodh Kumar Roy
Son of Shyamnandan Roy .. Applicant
Versus
CBI, ACB, Mumbai and Ors. .. Respondents

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- Mr. Aabad Ponda, Senior Advocate a/w. Ms. Rima Kharat, Advocate for Applicant.
- Mr. Kuldeep S. Patil a/w. Mr. Ashish Srivastava and Mr. Dhavalsinh V. Patil, Advocates for Respondent No.1 - CBI, ACB, Mumbai.
- None for Respondent No.2.
- Mr. Hitendra J. Dedhia, APP for Respondent No.3 – State of Maharashtra.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 22, 2025

P.C.:

1. Heard Mr. Ponda, learned Senior Advocate for Applicant; Mr. Patil, learned Advocate for Respondent No.1 - CBI, ACB, Mumbai and Mr. Dedhia, learned APP for Respondent No.3 – State of Maharashtra. None appears for Respondent No.2 – Union of India.

2. This is an Application under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Anticipatory Bail in connection with C.R. No.RC0262025A0002 of 2025 registered with Respondent No.1 for offence punishable under Sections 7, 7A, 8, 9 and 12 of the Prevention of Corruption Act, 1988.

3. Mr. Ponda would submit that as per prosecution case indictment of Applicant in the present case is on account of having received the graft in kind from one Mr. Khan who had paid for stay of Applicant and his family for a period of two days at Westend hotel in Matheran. Applicant before me is working as a Tax Inspector employed with Department of Revenue and Income Tax. His primary job and duty is to scrutinize applications received in Form 10 FA from Assessee seeking the DIT Certificate namely a Certificate which would give them benefit of non-reduction of Income Tax twice which is primarily known as No-TDS Certificate.

4. According to Mr. Ponda, the job of Applicant is to scrutinize documents appended to Application in Form 10FA and thereafter forward it to the Competent Authority for issuance of certificate alongwith his remark. He would submit that the investigation is complete and Applicant being a Government Officer, he would cooperate in the investigation or the trial, if required. He would submit that custodial interrogation of Applicant is not necessary since Applicant had admitted stayed in Matheran alongwith his family members for two days which is alleged in the Complaint. However regarding the case of prosecution about the alleged payment, Applicant is not accepting the said case.

5. Undoubtedly at the *prima facie* stage, I cannot conclude even on the basis of the primary evidence placed before me as trial would ultimately decide the fate of the Complaint.

6. However, Mr. Patil would submit that according to his instructions, Applicant is involved in similar *modus operandi qua* other persons like the Applicant who have applied for DIT Certificate and may have received similar graft. However, Mr. Patil in his usual fairness would inform the Court that in the so far the present case is concerned, he does not have any details to substantiate his submissions as it is only when this matter came to light, investigation has begun and it is taking time.

7. Mr. Patil would submit that Respondent No.1 be given some time to file an appropriate Affidavit-in-Reply and place on record the material that would be available against Applicant. After considering the record of case, an opportunity deserves to be granted to Respondent No.1 to file their Affidavit-in-Reply and place the material on record, if any. Let the Affidavit be filed within a period of four weeks from today.

8. However, in the meanwhile, no coercive steps shall be taken against Applicant before me. It is clarified that he shall not be arrested by Respondent No.1 - CBI, ACB, Mumbai. Needless to state that if required Respondent No.1 - CBI, ACB, Mumbai shall summon the

Applicant with advance notice to him for cooperating in the investigation after office hours only.

9. Stand over to 20th February, 2025.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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