



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

CRIMINAL APPLICATION [ABA] NO. 880 OF 2024

SANTOSH SAMPATRAO NIMBOLKAR

VERSUS

STATE OF MAH., THRU. ANTI CORRUPTION BUREAU, P.S., AKOT, DIST. AKOLA & ANR.

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

Court's or Judge's Order

Mr. S. V. Sirpurkar, Advocate for the applicant.
Mr. M. K. Pathan, A.P.P. for the non-applicant/State.

CORAM : G. A. SANAP, J.

DATE : JANUARY 03, 2025.

1. Heard Mr. S. V. Sirpurkar, learned advocate for the applicant and Mr. M. K. Pathan, learned Additional Public Prosecutor for non-applicant nos.1 and 2. Perused the record and proceedings.

2. This is an application filed under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") for anticipatory bail in crime bearing No. 507/2024, registered against the accused for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988 at Police Station, Akot.

3. It is the case of the prosecution that the informant is an agriculturist. The accused was working as Revenue Circle Inspector at Akot. An application was made by the father of the informant before the Sub Divisional Officer, Akot, for change of the class of his land. The informant

approached the accused in that regard. The accused demanded Rs.5,000/- (Rupees Five thousand only) for doing this work. The informant reported the matter to the Anti Corruption Bureau, Akola. Thereafter, the conversation in connection with the demand of bribe was recorded. A raid was arranged, but it could not succeed.

4. Learned advocate for the applicant submitted that the accused has retired from service. He is ready to give his specimen handwriting as well as his voice sample. It is submitted that for this purpose, arrest of the accused is not necessary. The police has not stated cogent reasons warranting his arrest in this crime. In support of the submission, learned advocate has placed heavy reliance on a decision of the Hon'ble Apex Court in *Satender Kumar Antil .vs. Central Bureau of Investigation and another*, reported at *(2022) 10 SCC 51*. By relying upon this judgment, it is submitted that even at the stage of deciding the bail application, the discretion has to be exercised keeping in mind the law laid down in this case.

5. Learned Additional Public Prosecutor submitted that the informant is a poor farmer. He had applied before the Sub Divisional Officer for change of the class of his land to Class-II land, The accused was the Revenue Circle Inspector and he was required to conduct the necessary inquiry in the matter. When the informant approached

him, he demanded an amount of Rs.5,000/- to expedite his work. It is submitted that the conversation with regard to the demand of bribe was recorded. Learned APP took me through the transcript of the recorded conversation. It is submitted that considering the fact that the crime is under the Prevention of Corruption Act and for the purpose of proper investigation of demand of bribe, the voice sample and handwriting of the accused is required to be collected.

6. As far as the law laid down in *Satender Kumar Antil* (*supra*) is concerned, the Hon'ble Apex Court has held that in the category of the crimes provided under Section 41 and 41-A of the Code of Criminal Procedure, the Investigating Officer has to record the reasons for the purpose of arresting the offender in the crime. Similarly, the Investigating Officer is required to record the reasons for not arresting the offender. It is submitted that the reasons stated in the reply do not justify the arrest of the applicant/accused.

7. In my view, at this stage, evidence in the form of transcript would be sufficient to *prima facie* observe that it is a case of demand of illegal gratification. Undisputedly, the raid could not succeed. Under Section 7 of the Act of 1988, demand of illegal gratification by a government servant, itself is an offence. The punishment for the proved offence may extend upto seven years.

8. The investigation in a crime under the Prevention of Corruption Act involves many technical aspects. The recorded conversation is a part of the record of the case. The voice sample is necessary to match the voice of the accused. Demand of bribe made from a poor farmer by the Circle Inspector, who at the relevant time was on the verge of retirement, is a serious crime. The police cannot be denied an opportunity to go to the root of the matter by conducting thorough investigation. In this view of the matter, considering the serious nature of the crime and the need of the accused for custodial interrogation, I am not inclined to grant anticipatory bail to the accused. As such, in the facts and circumstances, the law laid down in *Satender Kumar Antil (supra)* is of no help to the case of the accused.

9. The criminal application deserves to be rejected and accordingly, it is rejected.

(G. A. SANAP, J.)

Diwale