

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.591 OF 2021

Archana Deepak Jatkar Applicant
versus
State of Maharashtra Respondent

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- Mr.Aabad Ponda, Senior Advocate i/b. Vrushali Maindad, Advocate for Applicant.
- Mr.S.H. Yadav, APP for the State/Respondent.
- Dy. S P. Seema Mehendale, ACB, Pune, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 03rd MARCH, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.25/2021 registered with Dehu Road Police Station, on 14/01/2021 under sections 12 and 7 of Prevention of Corruption Act, 1988.

2. This is a very serious case, in which a judicial officer is sought to be arrested. The Applicant at the relevant time was occupying post of Judicial Magistrate First Class, Wadgaon Maval Court. The allegations are that for passing order in favour

Nesarikar

of the first informant, bribe was demanded and her associate actually accepted bribe.

3. The FIR was lodged by one Swapnil Madhukar Shevkar. He has stated that he is in the business of milk collection and selling that milk further to Amul Dairy. On 04/01/2021, his brother told him that a lady had come to their house and was asking him as to whether he was aware that Amul Dairy had filed a criminal case against him in Wadagaon Maval Court and as to whether they had received any notice of the same. She had told the informant's brother that the hearing was fixed on 06/01/2021. She had even given her mobile phone number. The informant accordingly made a phone call to that number. The lady informed him telephonically that her name was Mhatre and that a case was filed against him. She asked him whether he had received any notice and as to whether he had engaged any advocate. At that time, he told her that he was not aware of any such thing. Thereafter she asked him to meet her. According to her suggestion, the informant went to

Emerland hotel. At that time, she removed papers pertaining to a Court case. Those were about a criminal case filed by Amul Dairy against him and the next date of hearing was fixed on 06/01/2021. She told him that there was a strong possibility that a serious offence would be registered against him and he and his brother would be arrested. He would have to spend a lot of expenses for engaging Advocate, then finding sureties etc. She categorically stated that she could manage the judge and then the case could be dismissed. Thereafter the informant could even file complaint against Amul Dairy. She demanded Rs.5 lakhs for doing that work. After some negotiations, the amount was fixed for Rs.3 lakhs. The informant did not want to pay bribe. He approached Anti-Corruption Bureau Pune. Pursuant to the complaint, his allegations were verified in the presence of panchas. Verification process was carried out on 08/01/2021, 09/01/2021 and 11/01/2021. During the verification of his allegations, a phone conversation was recorded. From other side purportedly, the Applicant was speaking. After that conversation, Smt.Mhatre, told him to bring money. On 14/01/2021, the

informant went to the office of Anti-Corruption Bureau with Rs.50,000/-. The police officers took down numbers of those currency notes. Then they brought fake currency notes. The real notes and fake notes were put in five bundles. Anthracin powder was applied to them and those notes were handed over to the informant for giving them to Smt.Mhatre. The informant and Mhatre travelled in informant's car at various places. In the car, she accepted those notes and she got down. The informant gave pre-arranged signal. Smt.Mhatre was arrested with those notes and then this FIR was lodged.

4. The prosecution case is that the real name of said Mhatre was Shubhavari Gaikwad. She had accepted money on behalf of the Applicant.

5. The Applicant had approached the Court of Sessions for anticipatory bail which was rejected vide order dated 23/02/2021.

6. Heard Mr.Aabad Ponda, learned Senior Advocate for the Applicant and Mr.S.H. Yadav, learned APP for the State.

7. Mr.Ponda, learned Senior Counsel, appearing for the Applicant made submissions on facts. As a background he submitted that the Applicant was staying alone in Pune with her 11 month old baby. Her husband is employed in Mumbai. Therefore she was in need of somebody to look after her baby, when she attended her duties in Courts. She came in contact with Shubhavari Gaikwad, who won her trust. The Applicant started depending on her and she sought her help for arranging a maid to look after her baby. Mr.Ponda submitted on instructions that because of her necessity, the Applicant had many telephonic conversations and personal meetings with Shubhavari. Thus, accused Shubhavari took advantage of their close acquaintance and the Applicant's dependence on her. Therefore behind the Applicant's back, she indulged in all these activities of demanding money and accepting it though the Applicant was blissfully unaware of Shubhhavari's activities. He submitted that it came as a shock to the Applicant, when she came to know that she is implicated in this offence on false

allegations. Mr.Ponda submitted that the dependence of 11 months old baby on Applicant, should not be overlooked while deciding this application. Mr.Ponda, on instructions further submitted that According to the Applicant she had not demanded any bribe and there was nothing incriminating in the conversation between her and Gaikwad with reference to the informant's case which was before the Applicant.

8. Learned APP countered these submissions by relying on the investigation carried out so far. He submitted that at this stage, the conduct of raid and arrest of the accused Shubhavari at the time of accepting notes cannot be doubted. He specifically relied on the conversation dated 11/01/2021. That was a conversation between the co-accused Gaikwad and the present Applicant. Mr.Yadav submitted that the said conversation clearly shows deep involvement of the present Applicant and she could not claim innocence or ignorance regarding activities of the co-accused Gaikwad.

Reasons -:

9. I have considered these submissions. The conversation between the Applicant and her co-accused is important. It was recorded as verification of the allegations before conducting raid.. That conversation is dated 11/01/2021. It starts with accused Gaikwad who is referred to as Mhatre telling the Applicant that she wanted to have a personal conversation. There is a direct reference to the case No.724/2020. Mhatre @ Gaikwad told the Applicant that in that particular case, there was hearing on that date. The Applicant herself told Mhatre @ Gaikwad that the next date was given as 16/01/2021. The conversation proceeded further and Mhatre told the Applicant that the party was actually sitting in front of her. That obviously was reference to the first informant. The Applicant was asked to give her confirmation. On that, the Applicant had replied that everything would be alright and there would be no issues. Then there is a very important statement spoken by the Applicant, which can be loosely translated as follows -:

*“But ask him definitely whether it was for lodging FIR
..... no order.”*

10. Then the Applicant informed Mhatre that till then, there were no arguments, but the advocates were to argue on 16/01/2021. The advocates were asking for a longer date, but she gave date as 16/01/2021.

11. This conversation, prima faice, at least at this stage, does indicate the Applicant’s involvement in the case. It is not as if the Applicant was not aware about what the co-accused was saying. There was a direct reference to that particular case and to the fact that the accused in that case (present first informant) was sitting in front of Mhatre @ Gaikwad when this conversation took place. The Applicant was aware of his presence.

12. There is another recording dated 09/01/2021. On that day, Mhatre had played her recorded conversation with the Applicant to assure the informant. There is a direct reference to the person known as Shevkar. He is the first informant in that

case. In that conversation, the Applicant had repeatedly told Mhatre that informant's case would not stand once she rejected it and that there could not be any FIR and that there was a possibility that order u/s 202 of Cr.P.C. could be passed. She added that the case could be kept pending for years together. In fact in that conversation there was specific assurance given by the Applicant that the case would be cleared.

13. The investigation shows that there were 147 telephonic calls exchanged between the Applicant and Gaikwad.

14. These conversations are strong indication of Applicant's involvement in the offence. Therefore considering the gravity of offence, order of anticipatory bail cannot be passed in her favour. Her custodial interrogation is also necessary to find out the exact nature of relation between both the accused and as to whether in any other case these two have acted similarly.

15. The Applicant was occupying a very responsible position. Considering the seriousness of allegations against her,

it is necessary that the investigation is carried out thoroughly. Society's faith in judicial system should not be shaken by such instances. The investigating agency needs to go deep in the matter. No case for anticipatory bail is made out. The application is rejected.

16. However, on humanitarian grounds plight of the Applicant's innocent baby needs to be addressed. In the eventuality of the Applicant's arrest, the investigating agency shall not deny the Applicant access to her child. All the necessary facilities should be provided to the child when the child is with the Applicant.

17. At this stage, the learned counsel for the Applicant prays for stay of this order for a period of four weeks. Considering the gravity of offence and need of custodial interrogation, the prayer is refused.

(SARANG V. KOTWAL, J.)