

MHNG010019662021



**IN THE COURT OF DISTRICT JUDGE-2 AND  
ADDITIONAL SESSIONS JUDGE, NAGPUR.**

( Presided over by S.A.S.M. Ali, A.S.J. )

**Misc. Criminal Application No. : 542 of 2021.**

**Applicant** : **Vinod Baliram Gajbhiye,**  
Aged about 46 years, Occ. : Service,  
R/o : C/o Shantabai Gajbhiye, Plot No. 202,  
Ambedkar Colony Lashkaribag,  
Near Nagsen, Boudh Vihar, Haridas Nagar, Nagpur.

**// VERSUS //**

**Non-applicant** : **State of Maharashtra,**  
Through the Police Station Officer,  
Police Station Beltarodi, Nagpur.

**ORDER BELOW EXHIBIT 1**

( Passed on this 19<sup>th</sup> day of March, 2021 )

The present application is filed by the applicant/accused under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail in Crime No. 33/2021 for the offences punishable under Sections 406 & 420 read with Section 34 of the Indian Penal Code, 1860, registered at Police Station Beltarodi, Nagpur.

2] The case of the prosecution is that in 2016 the complainant was searching for an employment. His elder brother-in-law Haribhau Harley

and his friend Subhash Kukde informed him that the State Government has established Sanskrutik Vikas Mandal and the said Mandal is likely to publish notice for appointment of the post of Peon in near future. As such, the complainant along with his brother-in-law and his friend met the present applicant who assured them the job for the post of Peon through Chief Executive Officer of the said Mandal subject to payment of Rs.6,00,000/- as per the demand of Chief Executive Officer. It is further alleged that the applicant told him to deposit Rs.6,00,000/- in two installments and the first installment is to be paid on receiving of appointment letter and the another installment is to be paid on receipt of joining letter. According to the applicant, he paid Rs.3,00,000/- to the applicant on receipt of letter signed by the Divisional Manager and then paid Rs.3,00,000/- cash to the applicant and Gaurav Raje Sawarkar on receipt of joining letter. Again Rs.95,000/- paid by Subhash Kukde.

3] It is further case of the prosecution that after receipt of joining letter, the complainant joined service and received salary for about three to four months, but thereafter, he did not get regular salary and therefore, he left the job and demanded his money back from the prime accused Gaurav Raje, but he failed to pay and gave evasive answers. Even one Firoz who alleged to have been appointed to look after the work of Nagpur asked the complainant not to demand money to the applicant. It is further urged by the complainant that one Anand Suryawanshi and Umesh Adamane were also duped by the applicant to the tune of Rs.6,00,000/- and Rs.5,00,000/-, respectively by assuring the job to them. Thus, the applicant and other co-accused have in furtherance of their common intention deceived the

complainant and others to the tune of Rs.17,00,000/-.

4] According to the applicant, he is innocent and has been falsely implicated by the complainant on the say of one Subhash Kukde. Further there is delay of three years and seven months in lodging the F.I.R. It is also contented that during the investigation his statement is recorded by police and then on 08.02.2021 he was arrested. It is also contented that after going through PCR and MCR, his bail application is also rejected by the J.M.F.C.

5] The applicant further urged that sections 406, 420 of I.P.C. cannot be run concurrently. Neither any valuable property is entrusted to him nor he has misappropriated the same, but only the prime accused is involved in the present crime for promising complainant to return the amount and failed to do so. Thus, according to him, no ingredients of cheating or misappropriation of funds are satisfied.

6] The applicant further urged that he and Shubham Kukde are serving in the same department and Subhash Kukde told the applicant for searching an employment for his relatives and friends and since Gaurav Raje and Firoz Malani have already been informed him about the vacancies in the said Mandal and the said Mandal is working under the control of State Government and prime accused Gaurav Raje is holding a post of Chief Executive Officer. He, i.e. the applicant provided the information to Subhash Kukde who arranged the meeting of the complainant along with Haribhau with Gaurav Raje and the complainant and his relatives and they were ready and willing to fulfill the demand of prime accused Gaurav Raje

and Firoz Malani. Said Gaurav Raje sent one letter signed by Divisional Manager of S.B. Prakalp to the complainant and as per the agreed terms, the complainant paid Rs.3,00,000/- to the prime accused, then prime accused sent joining letter by post to the complainant and again made payment of Rs.2,95,000/- to them. According to the applicant, he is not involved in the offence. He is permanent resident of Nagpur, serving in Semi Government office, therefore, he will not abscond, in case released on bail. On all these grounds, he prayed for bail.

7] Application is opposed by the I.O. by filing say at Exh.3 on the ground that the present offence is committed in furtherance of common intention by the present applicant, one Gaurav Raje and Firoz Malani by pretending themselves as the officers of Sanskruti Vikas Mandal office which is a State Government undertaking and assured jobs to the various persons and under that pretext, duped so many persons by extracting the huge amount. As regards the present applicant, according to the I.O., he is residing on rental basis in the house of Shakuntala Shivatre and during investigation he has disclosed the name of Gaurav Raje Sawarkar and Firoz Malani who are not yet arrested and therefore, if the present applicant is released on bail, the absconding accused may flee away. It is also contented that one crime is also registered against the applicant at Bajajnagar Police station. If the applicant is released on bail, he may destroy the evidence, as accused has prepared the false documents.

8] Heard Mr. D.M. Dixit, the learned counsel for the applicant and Mr. L.B. Shendre, the learned A.P.P. For the State. Mr. Dixit, the learned

counsel for the applicant contented that there is delay in lodging F.I.R. The applicant has not issued any appointment letter. The only act done by the present applicant is that the information is given by him about the job. Nothing is recovered during PCR, neither there is any demand of money by the applicant, nor he is beneficiary. As such, he be released on bail.

9] The Learned A.P.P. contented that the offence is serious as helpless persons were cheated by the applicant and co-accused under the assurance that they will provide job to them.

10] I have given anxious considerations to the submissions of both the parties and perused the case diary. The F.I.R. is lodged by one Rahul Marotrao Gaiki. According to him, he was in search of job and the husband of his elder sister Haribhau Harley and his friend Subhash Kukde informed him that some posts of Peon are vacant at Sanskrutik Vikas Mandal at Nagpur. He further urged that, present applicant was known to Haribhau Herley who was Instrumental in providing job. Accordingly, the complainant, his brother-in-law and Shubham Kukde met Vinod Baliram Gajbhiye i.e. the present applicant who informed that the complainant will have to pay Rs.6,00,000/- i.e. Rs.3,00,000/- after receiving appointment letter and Rs.2,95.000/- after he join the duties. The complainant further averred that as per say of applicant, he provided the necessary documents of the educational qualification to the applicant and accordingly applicant asked him to bring Rs.3,00,000/-. As such, he, his brother-in-law and Subhash Kukde on the next day came to Nagpur and at that time Vinod Gajbhiye, the present applicant handed over him the appointment letter

singed by Divisional Manager of S.B. Prkalp to the complainant and as per the agreed terms, the complainant paid Rs.3,00,000/- to the applicant. According to the complainant, on 24.10.2016 he received the appointment letter and then he went to office where he met the present applicant and Gaurav Raje to whom he has handed over Rs.2,00,000/-. The complainant further stated that since he was not having enough money, he paid Rs.95,000/- to Shri Shubham Kukde.

11] The complainant further urged that on 27.01.2017 he joined as Peon and received salary regularly for 3-4 months, but it was then stopped and when he asked Gaurav Raje Swarkar about it, he gave him evasive answers and therefore, he suspected foul play and left the job in January-2019 and demanded his money back which was never returned by Gaurav Raje Sawarkar, but he was sent to one Firoz Malani and when complainant met him, he told him that he is looking after the work of office at Nagpur with Gaurav Raje Sawarkar. It is specifically urged by the complainant that when he asked the present applicant about money he too gave evasive answers.

12] During investigation the I.O. also recorded the statements of the witnesses who were also victims of the present applicant and the co-accused. The bank accounts of the various aspirants of the job are seized which shows huge amount was transferred to the account of Sanskrutik Vikas Mandal. The account of Sanskrutik Vikas Mandal was also seized by the police which were shows that huge amount was deposited in the account. It further appears from the case diary that after lodging of the

report, so many victims started approaching to the police and putting up their grievance against the applicant and other co-accused.

13] The submission of the applicant that he has only provided the information about the job, is not believable. The complainant has specifically stated that he has paid the amount to the applicant from time to time. Secondly, the authority and legality of so called Sanskrutik Vikas Mandal needs to be investigated. The offence appears to have committed in preplanned manner. I found much force in the submission of the learned A.P.P. that further investigation will unearth some more facts and therefore, if the applicant is released on bail, he may destroy the evidence or may cause obstruction in investigation. Thus, considering the nature of the offence it appears that, investigation is still in progress. The other co-accused are not yet arrested. Considering the circumstances, it is not fit case to grant discretion. Hence, the order.

### **ORDER**

- [i] The application (Exh.1) stands rejected.**
- [ii] Case diary be returned to the Investigating Officer, Police Station Beltarodi, Nagpur.**

Nagpur.  
Dated : 19.03.2021.

( **S.A.S.M. Ali** )  
District Judge-2 and  
Additional Sessions Judge, Nagpur.

**C E R T I F I C A T E**

I affirm that the contents of this PDF file Order are same word to word, as per the original Order.

Name of Stenographer : S.R. Chaple.