MHAH010066312022

Cri.Misc.Bail Appln.No.1701/2022

Shritesh Ramesh Panpatil.
Vs.
State of Maharashtra

:ORDER BELOW EXHIBIT 01:

1. Applicant-accused Shritesh Ramesh Panpatil filed this Regular Bail Application for the offence punishable under Sections 409, 420, 465, 468, 471 r.w. 120B of Indian Penal Code registered by Kotwali Police Station, Ahmednagar, vide C.R. No.I-731/2022.

2. According to the prosecution, the complaint is lodged by Anil Ramkisan Deshmukh, Branch Manager of Shri. Sant Nage Baba Multi- State Co-operative Credit Society, Ahmednagar, (hereinafter referred to as the Sanstha) contending that the accused persons in furtherance of their common intention by using and mortgaging fake articles of Bentex as gold, raised gold loan from the Sanstha and cheated the Sanstha. The authorized Bank Valuer – accused Ajay Kapale also gave false report in that regard certifying the fake gold to be genuine. The loan of Rs.2,78,000/- was fraudulently raised by accused persons in the name of Wasim Nisar Shaikh. Thus, the accused persons in furtherance of their common intention cheated the Sanstha of Rs.2,78,000/-. Hence, the crime is registered.

3. The learned Advocate for the applicant submitted that, the applicant-accused is innocent person and falsely implicated in this crime. The FIR is based on concocted version and roping the applicant is absolute mischief of the police and the complainant. The applicant is neither employee of the Sanstha and he was not burdened with trust by the Sanstha and hence Section 409 of IPC has no application.

4. The learned Advocate for the applicant has further submitted that, registration of crime is nothing but abuse of process of law. The alleged Wasim Shaikh was not complained against, surprisingly the applicant is roped in the present crime and actual person is not at all named in the FIR.

5. The learned Advocate further submitted that the Sections leveled against the applicant are not applicable. The applicant never cheated to anybody. He is made scapegoat. The accused No.1, Gold Valuer by hand-in-glove with accused Sunil Alkute have used fake gold, obtained loan from the Sanstha and they cheated them by using his name for securing the loan.

6. The learned Advocate for the applicant further submitted that, during investigation, nothing has been recovered from the applicant. The offence is totally based on the documents and hence, presence of the applicant behind bars for that is not necessary. The applicant has been arrested on 22/09/2022 and since then he is in jail.

7. The learned Advocate further submitted that the applicant is neither employee nor agent nor at all connected with the said Bank or Sanstha. The arrested persons are from the Bank and only on the bare

statement of said person the FIR is registered. FIR is based on hearsay fact. The person who stated the fact is not made an accused and neither he mortgaged the gold to the bank/ Sanstha. A deceptive story was formed by the investigation and it is prior to the registration of FIR. The FIR is mingled. Before this FIR, Kotwali Police Station already registered the FIR vide C.R. No.690/22 on 07/09/2022. The other FIR is from the same police station, but the complainant is from Shahar Sahakari Bank.

8. The learned Advocate further submitted that the name of the accused is not in the FIR. There are four accused namely, Kapale, Chipade, Kutal and Alkute. The applicant was arrested on 15/09/2022 in that matter. If we perused the remand report, the investigation is also carried out in respect of Nage Baba Sanstha in that FIR. From 15/09/2022 investigation is carried out in that offence and thereafter this offence is registered.

9. The learned Advocate further submitted that the earlier FIR is also from the same Police Station. When the applicant was released on bail by Trial Court on the same day, the second FIR was registered and again he was arrested. All the allegations are hearsay. Remand report shows that five persons were arrested and notice were served to the other accused persons. There was no fact finding investigation but it is a predetermined investigation, because the treatment are different to the different persons.

10. The learned Advocate for the applicant submitted that, further presence of the applicant is not necessary behind bars. The applicant will not hamper or tamper with prosecution evidence. The applicant is permanent resident of Bhingar, Taluka and District

Ahmednagar. Applicant is ready to abide by each and every condition imposed by this Court and hence prayed to release him on bail.

11. The learned APP by filing say vide Exhibit 05 strongly opposed the application on the ground that, the offence is serious in nature. The C.R.No.690/2022 is also registered against the accused persons in which the accused persons in furtherance of their common intention have cheated the Shahar Sahakari Bank, Ahmednagar, by fraudulently securing huge amount by way of loan. In that crime, approximately 33 account holders have fraudulently raised gold loan by pledging fake gold ornaments in the bank. Verification revealed that 23 account holders have mortgaged fake gold to the tune of 8520.40 Gm and have obtained amount of Rs.3,09,27,000/-. The accused persons have committed that offence.

12. The learned APP further submitted that, the accused Ajay Kapale is also appointed as Gold Valuer in the Sanstha. In this case, the complaint is registered against accused No.1 Ajay Kapale, accused No.2 Sunil Alkute, accused No.3- Shritesh Panpatil, Sandeep Sitaram Kadam. The applicant has also cheated the Sanstha by fraudulently securing loan from it.

13. The learned APP further submitted that the work of verification of fake gold is in progress. The accused persons in furtherance of their common intention hatched conspiracy and cheated the Shahar Sahakari Bank and the Sanstha.

14. The learned APP further submitted that two offences were separately registered, one is CR No.690/2022 regarding the Shahar

Sahakari Bank and other is CR No.731/2022 regarding the Sanstha. Both the FIR are totally different and informants are also different.

15. The learned APP further submitted that, the applicant-accused has obtained loan amount fraudulently and investigation revealed that the account holders have given the amount to Ajay Kapale and they have distributed the said amount amongst themselves. The applicant has made five gold loan proposals and he has used fake gold of 298 Gms and 600 Mg. and obtained amount of Rs.10 lakh. The applicant and other accused have in furtherance of their common intention cheated the Shahar Sahakari Bank and the Sanstha with the help of accused Gold valuer. Considering the seriousness of the offence, learned APP prayed to reject the application.

16. Heard both the sides at length and also perused the documents filed on record. Also perused the documents filed by the learned Advocate for the applicants.

17. On the perusal of documents on record, it appears that the the name of the applicant is specifically mentioned in the FIR, so also his role is specifically mentioned in the FIR and police papers. It appears that, the co-accused used to induce the various persons to obtain the loan and make the proposals regarding the said loans. The applicant along-with the other accused mortgaged the fake gold with the bank and the Sanstha and obtained the loan of huge amount. It is the modus operandi that applicant with the other accused persons that they used to share the said amount and some part was being given to the person in whose name the loan was obtained.

18. On the face of record, it seems that applicant is directly involved in this offence. The statement of some of the witnesses are recorded which clearly pointed out that applicant is directly involved in this offence.

19. On the face of record, it seems that prima facie offence is made out against the applicant. Investigation is at the initial stage. Under such circumstances, looking to the seriousness of the crime and the involvement of the present applicant in the crime, prima facie involvement of the applicant is established. Considering the above facts and circumstances, I pass the following order.

: O R D E R :

Criminal Misc.(Bail) Application No.1701/2022 is hereby rejected.

Sd/xxx

(**Prashant R. Sitre**)

Date : 10/11/2022. Additional Sessions Judge,
Ahmednagar.