MHLA160006262024	**RCC No.90/2024** **State Vs. Sudhir & Ors.2**

-:: **COMMON ORDER BELOW BAIL APPLICATIONS AT EXHS.16 & 17** ::-

1. Heard Ld. Advocate Shri. L.B. Shinde on behalf of accused **Shrikant Dasrao Shinde** and Ld. Advocate M. S. Nagrale on behalf of accused Accused **Sudhir Shankarrao Karbhari**. Heard Ld. Spl. A.P. P. Mr. S.R. Shaikh for the State.

2. The applications have been filed by accused no.1 and 2 for releasing them on bail under Section 437 of Code of Criminal Procedure. The accused are arrested in the Crime 208/2024 for the offences punishable under Section 420, 467, 468, 471 r/w.34 of I.P.C. registered with Deoni Police Station.

3. Ld. Advocate Shri. L.B. Shinde for the accused no.02 **Shrikant Dasrao Shinde** submitted that this is second bail application filed by the accused. Apart from present application bail petition is pending before the Hon'ble Sessions Court, Udgir *vide* Bail Application No.178/2024. No other bail application is pending either before the Hon'ble High Court or before the Hon'ble Sessions Court. Earlier bail application was rejected by this Court as the investigation was in progress and charge-sheet was to be filed in this matter. Now, charge-sheet is filed and investigation is over, therefore, considering the change in the circumstances, present application is filed.

4. Crime has been registered against the accused for the above-mentioned sections on the complaint of the informant namely Surekha Umakant Chaudhari, R/o. Honali, Tal. Deoni. Accused **Shrikant Dasrao Shinde** was arrested on 30/07/2024 and thereafter he was remanded in

police custody and eventually was taken into MCR on 02/08/2024. Since then, accused has been in MCR. As per the FIR, informant is Asha Worker who has stated that co-accused Sudhir Shankar Karbhari came to her house and assured to provide job to her son Ganesh in Health Department thereby asking her to handover the relevant educational documents of her son. Believing him, she sent the same to the co-accused. After two days, co-accused informed her of securing the job and demanded Rs.15,00,000/-. Informant shown her readiness to pay Rs.12,00,000/-. Accordingly, informant paid total amount of Rs.12,00,225/- in the bank account of the accused. However, no job was provided. Thereafter, co-accused prepared false appointment order dated 13/09/2021 with seal and signature of the concerned Deputy Director, Health Services, Latur. After verification, informant came to know that she has been cheated by the accused by making false Government documents and orders. Apart from the informant, one Tohit Ismail Shaikh was also cheated by the accused for the amount of Rs.4,15,000/-, Rs.2,00,000/- and Rs.2,00,000/-. In this way co-accused prepared various false and fabricated appointment orders by accepting total amount of Rs.24,30,225/- under the pretext of providing Government job to them.

5. Present bail application is preferred on the grounds that accused is a Veterinary Doctor and possesses diploma in Veterinary and Animal Science with first class rank in the year 2007. Accused was also in search of Government job and he was trapped by one Rajratan Suryawanshi and Deepak Suryawanshi. They assured him of giving sum of Rs.6,00,000/- from the present accused. Accordingly accused paid the said amount then they also gave him letter of appointment as Talathi at Kotal Shivani, Tal. Nilanga, Dist. Latur. Moreover, they give him a training and handed over the service book representing as issued by Government

of Maharashtra. They also secured bank account details of the accused for the purpose of salary. Thereafter, Rajratan and Deepak Suryawanshi asked accused to transfer an amount of Rs.12,00,000/- to the accounts of absconding accused No.3 and Deepak Suryawanshi between 12/11/2020 to 08/02/2021 on their three different bank accounts. Accused himself is victim in the present crime but he has arrayed as accused due to misuse of his bank account by accused No.1, 3 and Deepak Suryawanshi. Accused has not received a penny out of these transactions. The bank account of the accused has been misused by accused No.1 and 3 and Deepak Suryawanshi. Accused has also been defrauded by the other accused as like complainant and other 4 persons. There is nothing against the accused which connects him with a crime of cheating or a forgery. Accused is law abiding citizen having permanent address at Prakash Nagar Latur, Tal.Dis. Latur. He is Veterinary Doctor. He is not likely to abscond. Present accused and complainant never interacted with each other. It is only accused Nos.1 and 3 who used name and account number of accused. The address of the accused mentioned in the FIR is wrong one and complainant had never been to the house of the accused. The entire money credited to the account of the accused was transferred to the accused Nos.1, 3 and Deepak Suryawanshi. Accused never cheated complainant or any other person nor he forged or fabricated the documents. Accused had not demanded money to the accused, rather, co-accused misguided the other accused by telling him that the relatives of co-accused are depositing money in his account. On the same date co-accused told complainant to deposit money on the account of the accused. Accused never used or made the stamps. No stamps are within the custody of the present accused. Accused is also victim of cheating. Accused was about to lodge the report against the co-accused.

Meanwhile, complainant lodged FIR. There is no single allegation against the accused. Investigation is completed and charge-sheet has been filed. There is no capital punishment for the above offences and all offences are triable by JMFC Court. It will take time to conclude the matter. Therefore, if the accused is kept behind the bars, it will be a pre-trial punishment. Accused is innocent person. He has been falsely implicated in to the crime. He is the only earning member of his family. His family members are facing starvation since the date of his arrest. Accused is ready to furnish surety as per the order of the Court and ready to abide by conditions which will be imposed by Court. Therefore, prayed to enlarge the accused on bail.

6. Accused no.01, Sudhir Shankar Karbhari has preferred bail application at Exh.17 on the ground that accused has no concern with this crime. He has been falsely implicated into the crime. As per the FIR , informant has deposited the amount in the account of co-accused Shrikant Dasrao Shinde. Present accused has not done any monitory transactions with co-accused. Account numbers do not belong to the present accused. Co-accused namely, Shrikant Dasrao Shinde and Rajratnan Suryawanshi deceived present accused for the amount of Rs.6,00,000/- on account of giving job as a Talathi. Appointment order to that effect dated 02/12/2021 bearing signatures of Tahsildar Jalkot is given the present accused to take charge as Talathi at Sajja Hokarna. In this way, accused is also one of the victims. When present accused came to know about the cheating committed by Rajratan Ratan and Shrikant Shinde, he approached his father to give written assurance on Rs.100/- stamp to return the amount. Accused has been falsely implicated on the basis of false information. Considering the contents of the charge-sheet, all the transactions are done with accused Shrikant Shinde and not with

the present accused. Accused has been in MCR. He has been falsely implicated into the crime. He is only earning member of his family. His family members are facing starvation since the date of his arrest. There is no capital punishment for the above offences or offences are triable by JMFC Court. Accused is ready to furnish surety as per order of the Court and ready to abide by conditions which will be imposed by Court. Accused is permanent resident of village Honali. Therefore, prayed to enlarge the accused on bail.

7. I. O. filed a say at Exh.19 and objected to the application contending that during investigation bank account statements of the accused reveals that there are transactions in the bank account of the accused. Statement of accused No.1 shows that accused No.3 is involved in the crime. Bank statement of accused Shrikant Dasrao Shinde shows that complainant had deposited the amount in his account. After sending amount by the informant in the account of Shrikant Shinde, he further sent money to accused Rajratan Suryawanshi. There are number of credit and debit entries in the bank account of the accused. Apart from this, it is also revealed that accused has cheated other persons also. One accused is still absconding. False and fabricated seals used in commission of crime are yet to be seized. If released on bail, it will not be possible to recover the amount. Therefore, prayed to reject the application.

8. Ld. APP vide a say at Exh.20 opposed the application contenting that on perusal of charge-sheet it seems that both the accused have deceived informant as well as other witnesses which are mentioned in the charge-sheet for the amount of Rs.24,30,225/- under the promise of giving Government job. For the fulfillment of said act, accused persons with their common intention prepared forged documents of appointment

letter/order. The accused Sudhir approached complainant and asked to deposit amount to the account of the accused Shrikant Shinde and provided account numbers. Accordingly, complainant deposited amount to the account of Shrikant Shinde. All the amounts of complainant and other witnesses which are deposited are showing in the statements chronologically. The relevant material from the charge-sheet shows that both the accused persons have committed a crime. If the accused persons are released on bail, there is a possibility of tampering prosecution witnesses and evidence and there is also possibility of absconding. Therefore, prayed to reject the application.

9. In support of his argument Ld. Advocate Shri. B.L. Shinde for accused Shrikant Dasrao Shinde referred the cases of the Hon'ble Bombay High Court as well as of the Hon'ble Apex Court of India. He referred the ruling of the Hon'ble Bombay High Court bench at Aurangabad in the case of **Harikishan Gade Vs. State of Maharashtra DLD (Cri)-2023-2103** delivered by Hon'ble justice S.G. Mehere in which the Hon'ble Court was pleased to allow the application considering the entire aspects of the case and progress during investigation.

10. He also referred the ruling of the Hon'ble Bombay High Court at Aurangabad in the case of **Vishnu Ramchandra Bhagwat Vs. State of Maharashtra DLD (Cri)-2022-1890** delivered by Hon'ble justice C.V. Bhadang in which the Hon'ble Court held that when investigation is complete, charge-sheet is filed and trial has not yet commenced nor likely to be concluded in near future, considering over all circumstances accused can be released on bail.

11. He also referred the ruling of the Hon'ble Bombay High Court in the case of **Shripad Govind Jere Vs. State of Maharashtra DLD**

(Cri)-2022-1758 delivered by Hon'ble justice Bharti Dangre in which the Hon'ble Court held that when the investigation is completed, documents have been recovered and their appears no necessity for the accused to be detailed, bail may be granted.

12. He also referred the ruling of the Hon'ble Bombay High Court bench at Nagpur in the case of **Chetan S/o Vitthalrao Thakare & Anr. Vs. State of Maharashtra, DLD (Cri)-2022-1439** delivered by Hon'ble justice A. S. Kilor, in which the Hon'ble Court was pleased to allow the bail application considering case diary that the investigation is almost over and investigating officer seized the relevant record and documents including receipts of payment.

13. He also referred the ruling of the Hon'ble Supreme Court in the case of **Tarunkumar Vs. State of Uttar Pradesh, DLD (Cri)-2023-2478** delivered by Hon'ble justice Surya Kant and Hon'ble justice J.K. Maheshwari, in which the Hon'ble Court held that when a long period of incarceration has been undergone by accused, and it is apparent from acts of proceeding that conclusion of trial will take some long time, then Court may without going into merits of case grant bail to the accused.

14. He also referred the ruling of the Hon'ble Supreme Court in the case of **Golu Kumar Vs. State of Bihar, DLD (Cri)-2024-3054** delivered by Hon'ble justice B.V. Nagarathna and Hon'ble justice Augustine George Masih, in which the Hon'ble Court was pleased to allow the appeal and Trial Court was directed to released the accused on bail subject to conditions.

15. He also referred the ruling of the Hon'ble Bombay High Court bench at Nagpur in the case of **Jawandas S/o Anandrao Dandhare**

Vs. State, DLD (Cri)-2022-689 delivered by Hon'ble justice Rohit B. Deo, in which the Hon'ble Court was pleased to allow the bail after considering *prima facie* material on record that the applicant may have acted rashly or naively or may be even foolishly, in the sense that he himself invested a huge amount in metro vision, and that the applicant may not necessarily have recommended the investment plans of metro vision with culpable intent.

16. Ld. Advocate for the accused Shrikant Shinde as per the Judgment of Hon'ble Bombay High Court in the case of **Laxman Irappa Hatte Vs. State of Maharashtra, 2004**, on the point of change in circumstances.

17. Perused Charge-sheet. These are second bail applications of the accused No.1 and 2. Their earlier bail applications were rejected by this Court before filing of charge-sheet on 04/07/2024 and 05/08/2024 respectively. Documents produced along-with list at Exh.26 show that bail application bearing No.178/2024 preferred before the Hon'ble District and Sessions Court, Udgir has been withdrawn vide order dated 24/09/2024. Therefore, present application can be decided on merit. As per the FIR, accused are arrested for the offences punishable under Section 420, 467, 468, 471 r/w Section 34 of IPC. Accused alleged to have deceived the informant and the witnesses for the amount of Rs.24,30,225/- under the promise of giving Government job. For that purpose, accused with their common intention made false documents such as Government orders issued by Health Department. They alleged to have used those false documents for the purpose of cheating. While cheating the complainant they alleged to have procured certain amount from the complainant and witnesses which is transferred to their banks accounts. Charge-sheet has been filed. Along-with charge-sheet, I.O. has

filed documents such as spot panchnama, bank statements of the complainant, SBI bank statement of accused Sudhir Karbhari, LDCC bank Statement of accused Sudhir Karbhari, statements recorded of the witnesses namely Suryakant Yadavrao Mane, Dhammapal Suryakant Mane, Vishnu Shrirang Kamble, Komal Dolchipure, Tohit Shaikh, Vishnukant Kandangire as well as statement of the accused Sudhir Karbhari, bond written on stamp by father of absconding accused Rajratan Suryawanshi, seizure panchnama and documents seized from witness Komal Dolchipure, documents of Tohit Ismail, documents produced by Vishnu Shrirang Kamble and Vishnukant Kandangire and Dhammapal Mane, bank statement of Dhammapal Mane, bank account statement of absconding accused Rajratan Suryawanshi, bank statement of accused Shrikant Dasrao Shinde.

18. After perusal of above mentioned documents on record, it appears that accused No.1 and 2 along-with accused No.3 with their common intention between 2023 to 2024 under the promise of giving job to the son of the informant received certain amount time to time from the informant on the bank account of accused No.2 bearing A/c No.6266169427 and A/c No.20102260380. Thereafter, it appears that accused No.2 further transferred the amount to the bank account of accused No.3. The bank statements of accused No.3 shows number of credit and debit entries. Considering material on record, accused appears to have cheated informant and witnesses by receiving amount and prepared false documents of appointment order of post of Talathi, Arogyasewak and deceived to the complainant and witnesses for the total amount of Rs.,24,30,225/-.

19. The judgments referred by the Ld. Advocates for the accused

are based on different facts. Therefore those judgments are not helpful to the present accused considering peculiar facts of the case. Mere filing of the charge-sheet cannot be considered as change in the circumstances. It is necessary to consider what were the circumstances at the time of deciding earlier application and the change in the circumstances while deciding present application. Considering charge-sheet and documents filed along-with it, there is material against the accused which shows involvement of both the accused in the crime. At the time of rejecting earlier application bank transactions and statements of the bank accounts of the accused were considered. Statements recorded by the police during investigation shows the involvement of both accused. The defence taken by both the accused that they themselves are victim of the crime committed by absconding accused cannot be considered at this stage as their bank statements show otherwise. If the accused are released on bail there is possibility of absconding as well as tampering with the prosecution evidence. Therefore bail applications filed by accused No.1 and 2 at Exh.16 and 17 deserves to be rejected. Hence, I proceed to pass following order.

-:: ORDER ::-

The bail applications filed by accused No.1 and 2 at Exh.16 and 17 are hereby rejected.

Digitally signed by ATISH PRALHAD KHOLLAM
Date: 2024.10.25 17:18:13 +0530

(Atish Pralhad Khollam)
Judicial Magistrate, F.C.,
Deoni, Dist.Latur.

Place : Deoni
Date : 24.10.2024