

COMMON ORDER ON BAIL APPLICATIONS IN RCC Nos.226 & 227/2024 REGISTERED AT DHANTOLI POLICE STATION, NAGPUR.

1. This is an application filed by the accused namely Suraj Vishnupada Dey @ Goyal under Section 437 of the Code of Criminal Procedure.
2. Perused the application. Perused FIR and remand papers.
3. Heard learned Advocate Mr. Kashikar appearing for the applicant and learned APP Smt. Mamta for the State. I have gone through the entire record that is the remand papers and the documents attached with it.
4. The applicant is alleged to have committed the offence punishable under Sections 420 etc. of the Indian Penal Code.
5. In the present case, charge-sheet has been filed. Therefore, it appears that, the applicant has filed these bail applications.
6. The learned advocate for the applicant argued that the alleged offences are made not applicable so far as this applicant is concerned. He pointed out keenly as to how the present applicant is falsely implicated. According to him, there is no direct involvement / role of the present applicant in the alleged offences. Therefore, there are no chances of his absconding. The investigation is practically completed. Custody of this accused is not necessary. The alleged offences are triable by Magistrate. He is arrested merely on the ground of suspicion. The present applicant

never had intention to cheat. He is a poor person. Whether the applicant is reachable or not is to be seen. The punishment for the alleged offences may kindly be seen. The said accused is ready to furnish even local surety. The ingredients of the alleged offences are missing. The dispute is civil in nature. The informant has received back some amount. The informants in both the cases are themselves responsible for the situation. Therefore, the said accused cannot be blamed for the same. No agreement/receipt regarding investment of such huge amount is executed. The provisions of The Indian Contract Act, 1872 come into picture in the form of proposal and acceptance. Therefore, there is no question of cheating as such. Only to avoid payment of court-fees in the remedy of a suit, this short-cut method is adopted by the informants. Why the accused should be made to suffer when the informants have taken decision themselves. The aspects regarding name of the said accused are hearsay. Hence, he prayed that, considering vague nature of the case, the applicant may kindly be released on bail by imposing appropriate conditions.

7. Per contra, the learned APP submitted that, if the applicant is released on bail at this juncture, that is, when the investigation is in the initial stage and in fact is in progress, there is every possibility of tampering and/or threatening the prosecution witnesses and evidence. She submitted that, the offences are non-bailable in nature and the amount involved (that too at present on record) may kindly be taken into consideration. The present applicant had knowledge and/or intention to cheat.

The charge-sheet and the documentary evidence as well as statements on record of the witnesses clearly demonstrate the prime role of the said accused in the commission of crime. There is another crime registered against the said accused, wherein the amount involved is 1.5 crores. The nature of committing the crime and modus-operandi of all the accused persons is the key factor over here. Accounts and sim cards of other persons are used by all the accused. This shows that, they have done the same with guilty minds. Moreover, the present accused and the other ones seem to be in the habit of stating their names differently in order to obtain money from people like the informants. Therefore, considering the stage of the case, she submitted that, the application may kindly be rejected.

8. I have given my thoughtful consideration to the arguments advanced by both sides. Further, I have minutely gone through the say filed by the learned APP.

9. Considering the nature of offences, I find that, the material on record reflects complicity of the said accused in the offences alleged. Further, the offences in question are based on documentary evidence. If the applicant is released on bail, possibility of his tampering with the said documents/articles and influencing and/or threatening the prosecution witnesses cannot be ruled out. Further, in the facts and circumstances in hand, I find that, while considering application for bail for the nature of the offences alleged, the parameters/criteria for release of a person on bail are to be weighed and considered on a different

footing and in fact from a different perspective. Therefore, when such is the case, the interest of the society and public confidence are also one of the crucial factors that are to be kept in mind.

10. The applicant is ready to co-operate with investigating machinery. Therefore, he prayed for bail.

11. Now, coming to the bunch of papers before me, a reading of the FIR, in fact, its first two paragraphs itself, more particularly, together with its entire contents, prima-facie discloses involvement/complicity of the said accused in the present crime. Further, looking to the arguments of the learned advocate for the said accused that, no amount has been received by him/in his account, the fact remains that, the FIR narrates that the said accused accepted such huge amounts in cash. The reason for the same is unexplained. Further, the FIR clearly states that, the amount received was and about to be forwarded to the officers/persons named therein, of the alleged company. Hence, such a way of inducement can be relied upon by different persons under different circumstances and there cannot be a universal reaction/action regarding the same.

12. All these factors, coupled with the aspects that are till date transpired clearly point out/show the role, that too, vital, of the said accused, in the entire crime. Further, mere filing of the charge-sheet cannot be said to be a change in circumstance. That too, when, at a glance, crucial role is attributed to the said accused.

13. True it is that liberty is of utmost importance, at the same time, however, economic offences of such a huge nature stand on a different footing. Therefore, the aspect of liberty has to be looked into from the angle of the offences which are committed to hamper the interest of the society at large. Looking to the peculiar facts and circumstances, I find that, the nature, gravity and manner/mode/form of the allegations/crime, is so serious that it ultimately shakes the public confidence. Hence, if miscreants like the said accused are released on bail, there is every possibility of repetition at their hands, as already, one more offence is registered. Further, interference with the prosecution material/evidence at their hands is also a factor to be looked into.

14. Just to add, there is no absolute bar to invoke jurisdiction of criminal courts in some/certain civil disputes as well. Therefore, looking to the factual background, I do not find that, a criminal colour is given to a civil dispute, which in fact, is not purely so over here before me.

15. Thus, the facts, circumstances, reasons and conclusions which the record discloses as on today, do not satisfy the requirements for grant of bail to the applicant. Even otherwise, the situation on record is to be considered from the point of public interest. Therefore, looking to the gravity and multiplicity of the offences, even at this stage and considering the overall situation, it would not be just and proper to release the applicant on bail. In the result, following order is passed :-

ORDER

The applications are rejected.

Sd/-

(Pratik V. Kapadia)

Judicial Magistrate, First Class,
Court No.1, Nagpur.

Date :- 09.02.2024.