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ORDER BELOW EXHIBIT-102 IN RCC NO. 204 OF 2020

01. This is second bail application of accused Vaijanath Vishwanath Ingale.

02. It is the contention of the accused that, he is in MCR since 25.09.2023. Charge-sheet has been filed by the investigating officer. Accused is not involved in the above said crime directly or indirectly. The investigation is completed. There is no need to keep the accused behind the bar. The accused is ready to abide the conditions imposed by this Court. Hence, prayed to release on bail.

03. The investigating officer has filed say and submitted that if accused released on bail then there is possibility that he may tamper the evidence of the prosecution. He may pressurize the witnesses. Hence, prayed to reject the bail.

04. Learned App submitted his say wherein he opposed bail application on the ground that, since registration of offence, the accused is absconded. The possibility of flee from trial cannot be ruled out. If accused is released on bail then he may tamper the prosecution witnesses and also pressurize the witnesses.

05. Heard both the sides. The Ld. Advocate for the accused submitted that, the charge-sheet is filed it is the change in the circumstances. The investigating officer has not seized the job cards. The investigating officer has created charge on his property. The 7/12 Extract reveals that charge has been created in respect of this offence. It is the case of the prosecution that, the present accused has created job cards. But, the investigating officer has not filed the same in his investigation.

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The Accused was not absconded since registration of offence. His bail application was pending. He was having every hope that his bail application may be granted. Now, the charge-sheet is filed. No purpose will be served by keeping him behind the bar. Hence, prayed to release on bail.

06. Ld. APP submitted that if the accused is released on bail then he may pressurize the witnesses. Since registration of offence, accused is absconded. These shows that he will not attend the trial and matter will remain pending for years together. Hence, prayed to reject the application.

07. Considering the application, say and submissions following points arose for my determination for the reasons ensured thereon :-

Sr.No.	Points	Findings
1	Whether the accused is entitled for the bail ?	No.
2	What order ?	Application is Rejected

REASONS

AS TO POINT NO.1 :-

08. The Ld. Advocate for the accused filed 7/12 Extract below list Exh.112. The 7/12 Extract of Gut No.5/6 shows that 0.80 R land in the name of the accused is situated at village Vakad. The charge is created on this land. The Ld. Advocate for the accused also submitted that, it is settled legal position that, considering the rule of parity, accused be released on bail.

09. It is clear from the record that all the accused persons are released on bail. So far as, the role of this accused person is concerned, the accused is Gram Rozgar Sevak of Gram-Panchayat, Waghlud. The

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accused has misappropriated the amount by showing the fictitious person. He has opened the account in his name and the amount has been transferred in his account. In this case, the accused has misappropriated the huge amount of State by showing the fictitious person in the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS). The other accused persons are released on bail but the role of this accused is he has created forged job cards in the name of fictitious persons.

10. The Hon'ble Supreme Court in the case of **Nimmagada Prasad Vs. Central Bureau of Investigation, Reported In (2013) 7 SCC 466** in this case Hon'ble Supreme Court has given guide lines for considering the bail applications in a socio-economic offence. The Hon'ble Supreme Court in para No.24 of the judgment it was held that :-

“The relevant grounds and considerations for deciding the bail applications are the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/state and other similar considerations It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima-facie evidence in support of the charge. It is not expected, at this stage, to have evidence establishing the guilt of the accused beyond reasonable doubt.

11. By keeping the above observations in mind, the facts of the present case needs to be considered. The State has created charge over his property. The investigation is completed. It is the economic offence. The conduct of the accused is that, he has evaded his arrest since

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registration of offence. This conduct shows that there is a possibility that, he may flee from trial. The public money is involved in this case. After four years of registration of offence, he has appeared before this Court and surrendered himself. On perusal of the charge-sheet it appears that, the prosecution is able to produce the *prima-facie* evidence in support of his case. The one of the circumstances is the possibility of securing the presence of the accused at the trial. The conduct of the accused since registration of offence shows there is possibility that he may flee from trial. The prosecution could not secure his presence during the trial. Thus, in such circumstances the accused is not entitled for the bail. The matter is for framing of the charge. The trial will commenced after the framing of the charge. In view of the above circumstances, the accused is not entitled for released on bail. Hence, the following order :-

ORDER

Application is rejected.

Place : Malegaon
Date : 23.01.2024

[Pravin U.Kulkarni]
J.M.F.C. (Court No.2) Malegaon
Distt. Washim

CERTIFICATE

I affirm that the contents of this P.D.F file Order is same word to word, as per the original Order.

Name of the Stenographer : **Shivam B. Patange (L.G.)**

Court & Judge Name : PU.Kulkarni

Jt. C.J.J.D & J.M.F.C, Malegaon.

Date of Order : 23.01.2024

Order signed by the

Presiding Officer on : 24.01.2024

Order uploaded on : 24.01.2024