

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.603 OF 2015

Tanaji Ramchandra Nimhan ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Manoj Mohite, for the Applicant.

Ms. Veera Shinde, APP for Respondent – State.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JULY 01, 2015**

P.C.:

. The application is moved for bail as the applicant/accused is facing charges for the offences punishable under Sections 420, 464, 465, 468, 471, 224 and 120-B read with 34 of the Indian Penal Code in C.R. No. 659 of 2014 registered with Yerwada police station, Pune.

2. The first information report is given by one Anil Khamkar, a jailor of Yerwada Central prison. It is the case of the prosecution that Tushar Nimhan and Chetan Nimhan, the two sons of the applicant/accused were prosecuted for the offence of murder in C.R.

No. 143 of 2013 registered with Chattrushungi police station, Pune and a Sessions Case No. 652 of 2014 was pending before the Sessions Court, Pune. These accused were detained in Yerwada central prison.

3. It is the case of the prosecution that, on 22nd November, 2014 the authority of the Central prison, Yerwada received order of the Sessions Court, Pune bearing No. 4484 of 2014 dated 20th November, 2014 directing the Yerwada jail authority to release the accused Tushar Nimhan and Chetan Nimhan on bail. Pursuant to that, jail authority of Yerwada Central prison released both the accused on bail and sent the bail bonds to the Court. Pune Sessions Court on 9th December, 2014 called explanation from the jail authority and Court found that the said impugned order dated 20th November, 2014 releasing two accused on bail is forged. So the jailor/complainant gave first information report to Yerwada police station and pursuant to which the offence of cheating and forgery was registered against the unknown persons.

4. Pursuant to the first information report, investigation was carried out and police found that one Dipak Raut who was working as

a '*Sheristedar*' in the Court of concerned presiding officer has prepared this bogus writ order and it was sent to the jail. It is the case of the prosecution that, police found that the applicant/accused who is the father of these two accused persons was involved in creating forged documents and in the offence of cheating with the help of said Dipak Raut. Thereafter, the applicant/accused was arrested on 11th December, 2014. Hence, this bail application.

5. The learned counsel for the applicant/accused has submitted that there is no case against the applicant/accused. The case of prosecution that the applicant/accused raised money of Rs. 10 lacs towards the expenditure of bail application of his son is not disputed. He submitted that the case of the prosecution has taken as it is, still there is no evidence against the applicant/accused. He submitted that the applicant is not a party to the fraud and police could not collect any evidence against the applicant. He submitted that the applicant has deposited Rs. 16 lacs on 27th September, 2014 and thereafter on the same day, the amounts of Rs. 5,29,000/-, Rs. 9,45,000/- and Rs.1,22,000/- were paid to the Income Tax office. He further submitted that in fact the application of his two sons was

pending before the Supreme Court and therefore the applicant/accused has raised funds of Rs. 10,20,000/- by selling gold ornaments to one Radheshyam, a jeweler on 11th September, 2014. He submitted that the said application was subsequently argued and withdrawn on 26th September, 2014. He submitted that there is no evidence against the applicant. Moreover, considering the period of punishment provided for the alleged offence is maximum seven years imprisonment, under such circumstances, applicant is entitled to bail.

6. The learned prosecutor opposed the bail application. He relied on the complaint, so also the statements of two witnesses i.e. Dynaneshwar Shedge and Radheshyam. He submitted that in the statement of Dynaneshwar, he has stated that he want to sale the ornaments for bail and witness Radheshyam has confirmed that the amount of Rs. 10 lacs was given to him towards the sale of gold. She also relied on the statement of Shankar Chandere who was working as Court-peon at the relevant time and one Vijay Sonavane. She further submitted that the offence is of forging the order of the Court and presenting a forged writ. Therefore, he is not to be released on bail.

7. Perused the first information report, statements of witnesses Shankar Chandere, Vijay Sonavane and other witnesses. The submissions of the learned counsel for the applicant/accused that the applicant required money for bail as the application was pending in the Supreme Court, can be *prima facie* accepted. So also the transaction shown in the account, of depositing 16 lacs by cash and on the same day he made four payments to Income Tax Department are also possible. However, it is a case of preparation of forged writ of the Court for the purpose of release of two sons of the applicant/accused. The circumstances are completely against the applicant as his two sons are the beneficiary of this forgery. The co-accused Dipak Raut was working as a 'Sheristedar' in the said Court. There are phone call records between Dipak Raut and this applicant/accused which are of dated 10th, 22nd, and 23rd November, 2014. The said writ was received by the jail on 22nd November, 2014. The statement of Vijay Sonavane discloses that there was meeting of the applicant/accused and co-accused. The circumstances that no bail application of two sons of the applicant was pending before the Pune Sessions Court and yet a forged writ was prepared, issued and sent to the jail, is *prima facie* against the applicant. In this case of forgery, to

be a beneficiary is a major circumstance. The two sons of the applicant/accused were inside and subsequently both the sons were released on the basis of the said forged writ. This is the offence against the authority of the Court. It is very serious leading to malpractice in the Court. No lenient view can be taken. Therefore, I am not inclined to grant bail to the applicant.

8. Hence, the bail application stands rejected.

(MRS.MRIDULA BHATKAR, J.)