IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [BA] No.100 of 2015

(Rafat Alam s/o Maqsood Alam Lari
vs.
The State of Maharashtra, through P.S.O. Kalmeshwar, District Nagpur)

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Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	*Court's or Judge's Orders*

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CORAM : PRASANNA B. VARALE, J.
DATE : APRIL 9, 2015.

Heard Mr. S.K. Ullah, the learned Counsel for the applicant.

The applicant is before this Court seeking his enlargement on bail in connection with Crime No.231/2014, registered at Police Station Kalmeshwar, District Nagpur for the offences punishable under Sections 419, 420, 423, 467, 468, 471 and 474 of the Indian Penal Code.

The sum and substance of the report lodged at the instance of Salim Akhtar Milwala, an employee of the Anjuman Hami-e-Islam Bombay Public Trust, Sadar, Nagpur reflects a serious mischief played by the accused person viz. Sheikh Irfan Sheikh Abdul. The agricultural land of the said Trust is situated at village Karli, Tahsil Kalmeshwar. When the informant/complainant in pursuant to some administrative formalities had been to the revenue office, he found that in stead of the name of the Trust in the revenue record, the name of Mr. Sheikh Irfan Sheik Abdul, Mr. Hariprasad Sadhulal Shaha and M/s. Saraf Brothers Pvt. Ltd., through Director Smt. Sushmadevi Vinodkumar Sarai were entered in the record. On enquiry, it reveals that Mr. Sheikh Irfan by playing mischief of impersonification in the name of the President of the Trust prepared forged and fabricated documents. Initially the land was shown as sell out to Sheikh Irfan under a sale-deed and thereafter in the name of Hhariprasad Shaha and subsequently in favour of Smt. Sushmadevi Sarai. The report states that Sheikh Irfan was well conversant with the affairs of the Trust and was also well aware of the fact that the President Mr. M.A. Ajij expired on 15/09/2003. In spite of that, a document was prepared on 06/12/2003 showing the presence of Mr. M.A. Ajij as the President of the Trust. Thus, it is the case of the Trust that initially the agricultural land of the Trust was purchased by Sheikh Irfan and the other accused at lower rate and then the market rate, and then by playing mischief, the Trust was subjected to financial loss. The loss is not only to the Trust but it also to the State revenue. Thus, the mischief is played against the Trust as well against the State Government.

The learned Counsel for the applicant submits that all the allegations of mischief are against Mr. Sheikh Irfan. The learned Counsel further submits that there is neither any reference to the applicant in the report, and the role of the applicant was allegedly revealed in the further process of investigation is limited one of standing as a witness in one of the transaction. The learned Counsel for the applicant submits that there is nothing on record to show that the applicant derived any financial benefit out of these alleged transactions, or any cash or security was handed over to the applicant. The learned Counsel for the applicant then submits that the applicant is a driver and earns his livelihood by doing the job of driver on hire basis. The learned Counsel then submits that the applicant is arrested on 13/01/2015 and since then he is behind the bar. The learned Counsel then submits that most of the material is collected by the investigating agency. He then submits that the applicant is ready to cooperate the investigating agency and as there is no material against the applicant so as to receive any financial benefits, there is no need of any further custody of the applicant.

Mr. M.J. Khan, the learned A.P.P. opposes the application.

I have gone through the reply filed by the State and the material collected by the investigating agency. It is not in dispute that the role attributed to the present applicant is to the effect that he stood as a witness in one of the transactions. There is also no dispute on the fact that the applicant has not derived any financial benefits or any property or any cash or security was handed over to the applicant in any of these transactions. It is not the case of the State that the applicant is having any criminal antecedents to discredit him.

Considering the above referred facts, in my opinion, the learned Counsel for the applicant has made out a case for enlargement of the applicant on bail. The apprehension of the prosecution can be taken care of by imposing certain conditions on the applicant.

In the result, the application is allowed. The applicant be released on bail on his furnishing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one or two solvent sureties in the like amount on the following conditions.

i. The applicant to attend Kalmeshwar Police Station, District Nagpur on every second and forth Sunday of the month from 09:00 a.m. to 12:00 p.m. and maintain a diary of his attendance to the police station duly countersigned by the Investigating Officer or the Police Station Officer, till the trial commences.

ii. The applicant shall not tamper with the evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.

iii. The applicant to submit his residential address and contact numbers, such as phone/mobiles numbers, to the investigating agency or in case of change.

iv. In case the applicant is moving out of the area of Kalmeshwar Police Station, he shall take permission and inform the concerned Police Station about his visit to other place.

In case of any breach of the conditions by the applicant, the State would be at liberty to move this Court.

Needless to say that these observations are for consideration of the prayer of the applicant for enlargement on bail and the learned Sessions Judge may not be influenced by these observations in the process and progress of the trial and the trial be conducted on it's own merits.

The application is disposed of as such.

JUDGE

**sdw*