IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1999 OF 2016

Bapu s/o Narayan Shitole,
Age: 43 years, Occ: Agri.,
R/o. Kolegaon (Nimajewadi),
Tq. Shrigonda, Dist. Ahmednagar. ...Applicant

versus

1. The State of Maharashtra,
Through the Police Inspector,
Police Station Belwandi,
Tq.Shrigonda, Dist.Ahmednagar.

2. Santosh s/o Vitthal Jagdale,
Age: Major, Occ: Agri.,
R/o. Yelpane, Tq. Shrigonda,
Dist. Ahmednagar. ...Respondents

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Mr. Rahul R. Karpe, Advocate for applicant
Mr. S.Y. Mahajan, A.P.P. for respondent No.1
Mr. Niteen V. Gaware, Advocate for respondent No.2

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CORAM : N.W. SAMBRE, J.

DATE : 28th JUNE, 2016

ORAL ORDER :

The applicant is seeking pre-arrest bail in Crime No. I-22 of 2016 registered with Belwandi Police Station, Taluka Shrigonda, District Ahmednagar, for an offence punishable under Sections 420, 504, 506 read with Section 34 of the Indian Penal Code and under Section 39 and 45 of the Maharashtra Money Lending Act.

2. The prosecution case against the present applicant is that one Santosh Vitthal Jagdale alleged to have taken hand loan of Rs.5,00,000/- from the present applicant and towards security, he has executed blank stamp paper of Rs.100/- and two blank cheques bearing Nos. 24 and 50 on or about 25/08/2015.

3. It is claimed that though the said complainant Santosh Jagdale has returned the entire amount to the applicant with interest, still the applicant wanted to recover more amount and has not returned two blank cheques and stamp paper, rather has threatened the complainant with dire consequences.

4. While trying to make out case for grant of pre-arrest bail, Mr. Karpe, learned Counsel for the applicant would invite attention of this Court to the communication dated 05/02/2016 issued by applicant against one T.R. Nimbhore to District Registrar (C.S.), Ahmednagar, communication to the District Collector, Ahmednagar dated 11/02/2016 against the same person and communication to the Superintendent of Police, Ahmednagar on 18/02/2016 intimating about the conduct of said Nimbhore and use of police machineries against the present applicant in the matter of settling the dispute. He would then submit that complainant Santosh Jagdale is set up by said Nimbhore and so as to substantiate his case, he has relied upon

the contents of the complaint. He would also urge that the complainant and said Nimbhore are supported by police machinery and the applicant is falsely implicated in the crime in question.

5. Learned A.P.P. is assisted by Mr. Gaware, learned Counsel for the complainant. Mr. Mahajan, learned A.P.P. submits that the involvement of the applicant is writ at large. So as to substantiate his contentions, he would rely upon the statement of Rajendra Pawar, witness to the incident, statement of Tukaram Jagdale, Nana Jagdale and extracts from the account of complainant with that of statement of one Milind Kulkarni, Stamp Vendor, certifying that the complainant has purchased stamp in question on 13/08/2015.

6. According to him, there is need for custodial interrogation as regards blank stamp paper, blank cheques and involvement of the applicant in such similar crime is required to be investigated into. He submits that the application be rejected.

7. Having bestowed my thought and having scanned the investigation papers, it is required to be noted that complainant Santosh has lodged complaint on 20/02/2016 alleging the crime in question. The main crux i.e. evidence which is used against the

present applicant is two blank cheques and blank stamp paper of Rs.100/-. Upon perusal of the investigation papers, it is to be noted that prior to filing of the complaint, the complainant has stopped payment of in all three cheques on 16/02/2016. When confronted with learned A.P.P. and learned Counsel for the complainant, they are not in a position to explain as to why the issue as regards stop payment was not reflected in the complaint or in the investigation papers, though said fact was well within the knowledge of the complainant, as is reflected in the extract of account of Khandeshwar Earthmovers i.e. complainant. It is then to be noted that the said document i.e. extract of the bank account of the complainant is found in the investigation papers on record, however, source of the same is not clear, as nothing was communicated by the Bank of India, in response to query raised by the Investigating Officer vide Outward No. 638 of 2016 issued some time in March, 2016. On the communication to the bank seeking details of movement of cheques in question, even the date on the said communication is not noticed. Apart from above, it is to be noted that about blank stamp paper details though are not available on the record including that of in first information report, the Investigating Officer has wrote letter to the Registrar of Stamps at Shrigonda and sought details of stamp paper,if any, purchased in the name of Santosh Vitthal Jagdale. The said communication is dated 15/03/2016 and also received by Milind

Kulkarni, Stamp Vendor on the very same date. What was mode of addressing the said communication or serving the same to stamp vendor Kulkarni is also not on record including that of investigation papers to that effect. The said stamp vendor has vide communication dated 15/03/2016, informed that stamp of Rs.100/- was purchased on 13/08/2015 vide Register No. 1952 of 2015 with Stamp No. 208629 for denomination of Rs.100/-. One fail to understand as to how the transaction of 25/08/2015 could have been guaranteed by stamp paper on 13/08/2015. The transaction is claimed to be prior in point of time though guarantee executed, is almost after six months. One more aspect of the matter is stamp in question is purchased in the name of applicant through one S.A. Aher. However, he was authorized to purchase stamp paper on behalf of the complainant can not be inferred from the record.

8. As discussed from the evidence as is noted herein above, false implication of the applicant in the crime in question, can not be ruled out, hence, in my opinion, the applicant is entitled to be released on bail. Hence, the following order:-

In the event of arrest, the applicant be released on bail, in connection with Crime No. I-22 of 2016 registered with Belwandi Police Station, Taluka Shrigonda, District Ahmednagar, for an offence punishable under Sections 420, 504, 506 read with Section 34 of the Indian Penal Code and under Section 39 and 45 of the Maharashtra Money Lending Act, upon furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.

9. Criminal Application stands allowed in above terms.

The copy of this order be placed before Superintendent of Police, Ahmednagar for further appropriate action.

[**N.W. SAMBRE, J.]**

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