

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.4826 OF 2015

Nilesh s/o Girdharilal Soni
(Mandaliya), age 52 years,
Occu. Goldsmith,
R/o 12, Madhav Colony,
Behind Niramay Hospital,
80 feet road, Dhule
Taluka and District Dhule

..Applicant

Versus

1. The State of Maharashtra

2. The Police Inspector,
Devpur Police Station,
Dhule

..Respondents

Mr C.R. Deshpande, Advocate for applicant
Mr S.M. Ganachari, A.P.P. for respondents

CORAM : N.W. SAMBRE, J.

DATE : 20th January 2016

PER COURT

Heard.

2. The applicant is seeking pre-arrest bail in Crime No.69/2015 registered at Deopur Police Station, District Dhule, for the offence punishable under Section 420 of the Indian Penal Code.

3. The prosecution story against the present applicant is that one Dinesh, working with the Bajaj Finance Ltd., informed the investigating agency that one Ghanashyam Solanki, in lieu of security of certain gold jewellery has obtained loan. It is, upon default committed by Ghanashyam when the jewellery was offered for sale in auction, it was noticed that the jewellery was not genuine. As such, offence came to be registered and investigation in the matter has commenced.

4. During interrogation of Ghanshyam, he has named present applicant as accused, who is working as Goldsmith and responsible for carving the jewellery in question.

5. While trying to make out the case for grant of pre-arrest bail, Mr Deshpande, learned Counsel for the applicant would strenuously urge that failure on the part of applicant to attend the Police Station was because of non-communication of the order dated 13th January 2016 granting interim protection in favour of the applicant, by the instructing Advocate Mr M.S. Bhandari. The applicant failed to attend the police station as the order though was communicated to the instructing Advocate, however, because of his ill-health same was not brought to the notice of applicant. Leave apart, Mr Deshpande would urge that the applicant is entitled for protection. On the statement of co-accused, the applicant cannot be impleaded as accused and be held responsible for the offence in question. He would then urge that the applicant is a Goldsmith and makes the jewellery against the orders and has accordingly executed the order of Ghanshyam Solanki, the accused in the case. Applicant has accepted the order pursuant to the exact details of the order furnished by Ghanshyam Solani and as such, the applicant cannot be roped in the crime in question.

6. Learned Counsel for applicant then would urge that the custodial interrogation of the applicant is not necessary, as he is very much available for the investigation in the matter.

7. Learned A.P.P., while opposing the application would urge that in similar case, a complaint was received against the applicant at City Police Station, Dhule on 25th June 2015. He would then urge that the jewellery seized in the investigation depicts the emblem of very renowned jeweller 'Ratanlal C. Bafna' which the applicant is not entitled to use while making the jewellery. He would then urge that the said approach on the part of applicant has prompted the Bank officials to believe that the jewellery is made by reputed jeweller.

8. Having considered the rival submissions of the parties, it is required to be noted that the modus operandi adopted by Ghanshyam, the main accused appears to be to use the jewellery made by present applicant Nilesh as a security for obtaining the loan. The jewellery is prepared by the applicant in such a manner and style which has prompted the Bank officials to believe that the jewellery is genuine one and considering its weight, the valuation was made and advances were made to Ghanshyam. It is admitted fact that the applicant is not entitled to use the word "R.L." (Rajmal Lakhichand) and "R.C.B." (Ratanlal C.Bafna).

9. The above referred aspect of the matter is required to be investigated into.

10. In my opinion, the conduct of the applicant of using the monogram and making the jewellery in such a manner to mislead the finance company prompts his custodial interrogation for further investigation.

11. As such, application fails, stands rejected.

(N.W. SAMBRE, J.)

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