IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1659 OF 2019

Deepak Dnyandev Bhosale & Anr. ...Applicants

V/s

The State of Maharashtra ...Respondent

Sumant Deshpande for the applicants.
Geeta P Mulekar APP for the State/Respondent.
(I.O.) - PSI – Mr. Eknath T. Bhoir, Economic Offences Wing, Nashik.

CORAM : PRAKASH D. NAIK, J.
DATE : 3rd DECEMBER, 2020

PC :

1. The applicants were arrested in CR. No. I-22 of 2018, registered with Dindori Police Station, District- Nashik for the offences punishable under Sections 420, 406, 407, 408, 409, 120(B) r/w. 34 of Indian Penal Code, 1860 ('IPC' for short). The First Information Report ('FIR' for short) was lodged on 19.01.2018. The investigation was transferred to EOW, Nashik. Subsequently, Sections 465, 467, 468, 471 were added.

2. The prosecution case is that the FIR was lodged by Rajendra Dashrath Kalamkar. He is a grape farmer. In

2014, the applicants and Dyandeo Bhosale got acquainted with the complainant. They represented that they are exporting grapes through their firm D.P.S. Agro fresh and D.P. Sales Corporation. They visited the grape farm of the complainant at Mohadi. They also represented that they are holding government license for import and export. The complainant delivered grapes to the accused and in respect of said delivery the complainant received Rs.24,08,439/- by RTGS. Since the complainant received the payment, immediately, he agreed to deliver the grapes from his Mohadi farm to the accused. In 2014, the complainant had delivered grapes worth Rs. 67,07,563.62/- to the accused. The accused had issued cheques towards the delivery of grapes. However, the cheques were dishonored. The complainant thereafter learnt that the accused had deceived other farmers and cases were registered against them.

3. The applicants preferred an application for bail before the Sessions Court which was rejected by order dated 27.03.2019.

4. Learned counsel for the applicants submitted that the

dispute is purely of commercial nature. There is no element of cheating. The offences alleged in the FIR are not attracted. There is delay in lodging FIR. The co-accused Dnyandev has been granted bail by this Court vide order dated 29.10.2018. Investigation is completed and charge-sheet is filed.

5. Learned APP submitted that the applicants are involved in CR. No. 66/2017, 22/2018 and CR No. 32/2018 and other cases. It is submitted that statement of several witnesses were recorded which has supports the prosecution's case. The delay in lodging FIR, is on account of fact that the accused had initiated Arbitration proceedings. Case was duped for huge amount. The co-accused was granted bail on the ground that he was Senior Citizen. The cumulative effect of all the cases registered against the applicants are that the complainant/victims were deceived of huge amount. It is also revealed in the investigation that the applicants had prepared false PAN cards.

6. The FIR was lodged on 19.01.2018. The transaction between the applicant's firm and the complainant were

executed in 2014. The FIR was lodged after the period of four years. The investigation is completed and charge-sheet is filed.

7. Learned counsel for the applicants has pointed out letter dated 5.07.2018 address to Income Tax Department by applicant no. 2 stating that the PAN card No. BZCP85026K is issued at his address. The details on the PAN Card Number mentioned is not his but his photo is correct. The signature is not of the said applicant. He had applied for PAN card with his details and proof and same is issued to him. The correct details were mentioned in the said letter. It was stated that to avoid future complications and misuse of said PAN card, he had destroyed the original Pan card and kept photo copy of the said PAN card, he further stated that he had not utilized old PAN card for any financial transactions nor misuse the same. The applicants requested the Department to cancel the said PAN card.

8. I have perused the documents on record. The FIR was lodged on 19.01.2018. The grapes were sold in 2014. There is no explanation for lodging FIR, after period of about 4 years. The documents on record would indicate that

there was issue rejection of produced. The co-accused Dnyandev Bhosale (father of applicant) granted bail by this Court. On perusal of the said order it can be seen that the bail was granted on the merits of the case. It observed that the FIR was lodged belatedly. It was observed that there is dispute as regards to the liability of the applicants to pay the amount. Under the circumstances, the record prima-facie did not indicate that the applicant had intention to cheat from inception. Investigation is completed and charge-sheet is filed. The applicants are in custody from date of arrest.

9. Apart from this application the applicants have preferred Bail Application No. 1160/2019 in CR. No. 32/2018 registered with Pimpalgaon Police Station, Bail Application No. 1299/2019 in CR. No. I-09/2018 registered with Ojhar Police Station and Bail Application No. 2328/2019 registered with Pimpalgaon Police Station. In all these cases FIR were lodged belatedly. The prosecution is relying upon the other complaint registered against the applicants. All the complaint after enormous delay. The prosecution has filed an affidavit stating that apart from the three other cases referred to here-in-above, the applicants were also involved

in CR. No. 57/2018, 13/2018 and CR. No. 121 of 2018. The learned counsel for the applicants submitted that the applicants are on bail in all other cases except the cases in which the applicants have preferred an application for bail before this Court.

10. Considering the aforesaid circumstances, the applicants can be directed to be released on bail.

ORDER

(i) Bail Application No. 1659 of 2019, is allowed;

(ii) The applicants are directed to be released on bail in connection with C.R. No.I-22 of 2018, registered with Dindori Police Station, Nashik, on his furnishing P.R. Bond in the sum of Rs.25,000/-, each with one or more sureties in the like amount;

(iii) The applicant shall not tamper with the prosecution evidence and witnesses;

(iv) The applicants shall regularly attend trial court on every date of hearing, unless exempted by Court.

(iv) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)